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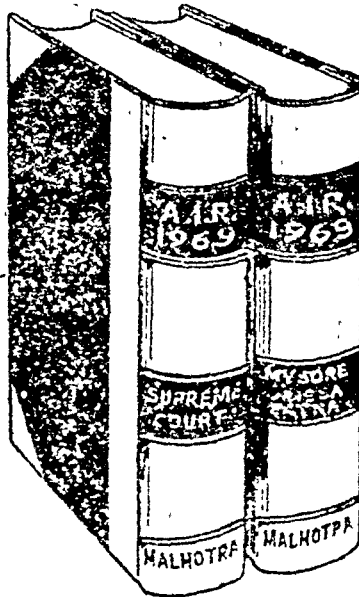
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U. S. S. C. Pages 1 — 112

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1

2

A I R

1969

(VOL. 56)

A I R

1969

(VOL. 56)

SUPREME COURT

**NOTES OF
SUPREME COURT
U. S.
SUPREME COURT
ACTS
JOURNAL**

3

4

A I R

1969

(VOL. 56)

A I R

1969

(VOL. 56)

ALLAHABAD

ANDHRA PRADESH

ASSAM

BOMBAY

CALCUTTA

5

A I R

1969

(VOL. 56)

6

A I R

1969

(VOL. 56)

DELHI

GOA

GUJARAT

JAMMU & KASHMIR

KERALA

MADHYA PRADESH

MADRAS

MANIPUR

7

A I R

1969

(VOL. 56)

8

A I R

1969

(VOL. 56)

MYSORE

ORISSA

PATNA

PUNJAB

RAJASTHAN

TRIPURA

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1969

[Vol. 56]

INDIAN ACTS SECTION

C O N T A I N I N G

ACTS OF THE PARLIAMENT ASSENTED TO BY THE PRESIDENT

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INDEX TO ACTS OF PARLIAMENT

(I) ALPHABETICAL LIST OF SHORT TITLE OF THE ACTS, 1969

The Appropriation Act, 1969 (4 of 1969)		The Foreign Exchange Regulation (Amendment) Act, 1969 (40 of 1969)	
... ..	(Sept) 2	The Foreign Marriage Act, 1969 (33 of 1969)	
The Appropriation (No. 2) Act, 1969 (5 of 1969)	(Sept) 2	
The Appropriation (No. 3) Act, 1969 (13 of 1969)	(Sept) 8	The Gold (Control) Amendment Act, 1969 (26 of 1969)	
The Appropriation (No. 4) Act, 1969 (31 of 1969)	(Dec) 75	The International Monetary Fund and Bank (Amendment) Act, 1969 (41 of 1969)	
The Appropriation (No. 5) Act, 1969 (49 of 1969)	(Index) 103	The Khuda Bakhsh Oriental Public Library Act, 1969 (43 of 1969)	
The Appropriation (No. 6) Act, 1969 (50 of 1969)	(Index) 104	The Limitation (Amendment) Act, 1969 (10 of 1969)	
The Appropriation (Railways) Act, 1969 (6 of 1969)	(Sept) 2	The Manipur Appropriation Act, 1969 (51 of 1969)	
The Appropriation (Railways) No. 2 Act, 1969 (7 of 1969)	(Sept) 2	The Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969)	
The Appropriation (Railways) No. 3 Act, 1969 (29 of 1969)	(Dec) 75	The Motor Vehicles (Amendment) Act, 1969 (56 of 1969)	
The Appropriation (Railways) No. 4 Act, 1969 (30 of 1969)	(Dec) 75	The Oaths Act, 1969 (44 of 1969)	
The Appropriation (Railways) No. 5 Act, 1969 (48 of 1969)	(Index) 103	The Oilfields (Regulation and Development) Amendment Act, 1969 (30 of 1969)	
The Appropriation (Vote on Account) Act, 1969 (2 of 1969)	(Sept) 1	The Payment of Bonus (Amendment) Act, 1969 (8 of 1969)	
The Armed Forces (Special Powers) Continuance Act, 1969 (3 of 1969)	(Sept) 1	The Indian Penal Code (Amendment) Act, 1969 (36 of 1969)	
The Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969)	(Index) 123	The President (Discharge of Functions) Act, 1969 (16 of 1969)	
The Banaras Hindu University (Amendment) Act, 1969 (34 of 1969)	(Index) 83	The Press Council (Amendment) Act, 1969 (27 of 1969)	
The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969 (22 of 1969)	(Nov) 55	The Public Employment (Requirement as to Residence) Amendment Act, 1969 (1 of 1969)	
The Bihar Appropriation Act, 1969 (52 of 1969)	(Index) 104	The Public Wakfs (Extension of Limitation) Amendment Act, 1969 (9 of 1969)	
The Bihar Land Reforms Laws (Regulating Mines and Minerals) Validation Act, 1969 (42 of 1969)	(Index) 96	
The Bihar State Legislature (Delegation of Powers) Act, 1969 (32 of 1969)	(Dec) 75	The Punjab Legislative Council (Abolition) Act, 1969 (46 of 1969)	
The Central Sales Tax (Amendment) Act, 1969 (28 of 1969)	(Dec) 72	The Indian Railways (Amendment) Act, 1969 (21 of 1969)	
The Coal Bearing Areas (Acquisition and Development) Amendment Act, 1969 (23 of 1969)	(Dec) 66	The Indian Registration (Amendment) Act, 1969 (45 of 1969)	
The Companies (Amendment) Act, 1969 (17 of 1969)	(Sept) 32	The Registration of Births and Deaths Act, 1969 (18 of 1969)	
The Constitution (Twenty-Second Amendment) Act, 1969	(Index) 91	The Salaries and Allowances of Members of Parliament (Amendment) Act, 1969 (25 of 1969)	
The Constitution (Twenty-Third Amendment) Act, 1969	(Index) 164	The Salaries and Allowances of Ministers (Amendment) Act, 1969 (47 of 1969)	
The Criminal and Election Laws Amendment Act, 1969 (35 of 1969)	(Index) 86	The Indian Tariff (Amendment) Act, 1969 (53 of 1969)	
The Customs (Amendment) Act, 1969 (12 of 1969)	(Sept) 4	The Union Territories (Separation of Judicial and Executive Functions) Act, 1969 (19 of 1969)	
The Delhi High Court (Amendment) Act, 1969 (37 of 1969)	(Index) 91	The Unlawful Activities (Prevention) Amendment Act, 1969 (24 of 1969)	
The Delhi Motor Vehicles Taxation (Amendment) Act, 1969 (11 of 1969)	(Sept) 4	The Wakf (Amendment) Act, 1969 (38 of 1969)	
The Estates Duty (Distribution) Amendment Act, 1969 (15 of 1969)	(Sept) 31	The West Bengal Legislative Council (Abolition) Act, 1969 (20 of 1969)	
The Finance Act, 1969 (14 of 1969)	(Sept) 8		

(II) CHRONOLOGICAL LIST OF THE ACTS OF PARLIAMENT, 1969

1 of 1969 — The Public Employment (Requirement as to Residence) Amendment Act, 1969	(Sept) 1	6 of 1969 — The Appropriation (Railways) Act, 1969	
2 of 1969 — The Appropriation (Vote on Account) Act, 1969	(Sept) 1	7 of 1969 — The Appropriation (Railways) No. 2 Act, 1969	
3 of 1969 — The Armed Forces (Special Powers) Continuance Act, 1969	(Sept) 1	8 of 1969 — The Payment of Bonus Act, 1969	
4 of 1969 — The Appropriation Act, 1969	(Sept) 2	9 of 1969 — The Public Wakfs (Extension of Limitation) Amendment Act, 1969	
5 of 1969 — The Appropriation (No. 2) Act, 1969	(Sept) 2		

10 of 1969 — The Limitation (Amendment) Act, 1969 ...	(Sept) 3	35 of 1969—The Criminal and Election Laws Amendment Act, 1969 ...	(Index) 86
11 of 1969 — The Delhi Motor Vehicles Taxation (Amendment) Act, 1969 ...	(Sept) 4	36 of 1969 — The India Penal Code (Amendment) Act, 1969 ...	(Index) 89
12 of 1969—The Customs (Amendment) Act, 1969 ...	(Sept) 4	37 of 1969 — The Delhi High Court (Amendment) Act, 1969 ...	(Index) 91
13 of 1969 — The Appropriation (No. 3) Act, 1969 ...	(Sept) 8	—The Constitution (Twenty Second Amendment) Act, 1969 ...	(Index) 91
14 of 1969—The Finance Act, 1969 ...	(Sept) 8	38 of 1969 — The Wakf (Amendment) Act, 1969 ...	(Index) 92
15 of 1969—The Estate Duty (Distribution) Amendment Act, 1969 ...	(Sept) 31	39 of 1969 — The Oilfields (Regulation and Development) Amendment Act, 1969 ...	(Index) 93
16 of 1969—The President (Discharge of Functions) Act, 1969 ...	(Sept) 31	40 of 1969 — The Foreign Exchange Regulation (Amendment) Act, 1969 ...	(Index) 94
17 of 1969 — The Companies (Amendment) Act, 1969 ...	(Sept) 32	41 of 1969—The International Monetary Fund and Bank (Amendment) Act, 1969 ...	(Index) 95
18 of 1969 — The Registration of Births and Deaths Act, 1969 ...	(Oct) 33	42 of 1969 — The Bihar Land Reforms Laws (Regulating Mines and Minerals) Validation Act, 1969 ...	(Index) 96
19 of 1969 — The Union Territories (Separation of Judicial and Executive Functions) Act, 1969 ...	(Oct) 39	43 of 1969—The Khuda Bakhsh Oriental Public Library Act, 1969 ...	(Index) 96
20 of 1969 — The West Bengal Legislative Council (Abolition) Act, 1969 ...	(Nov) 53	44 of 1969—The Oaths Act, 1969 ...	(Index) 101
21 of 1969 — The Indian Railways (Amendment) Act, 1969 ...	(Nov) 54	45 of 1969 — The Indian Registration (Amendment) Act, 1969 ...	(Index) 102
22 of 1969 — The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969 ...	(Nov) 55	46 of 1969 — The Punjab Legislative Council (Abolition) Act, 1969 ...	(Index) 102
23 of 1969 — The Coal Bearing Areas (Acquisition and Development) Amendment Act, 1969 ...	(Dec) 66	47 of 1969 — The Salaries and Allowances of Ministers (Amendment) Act, 1969 ...	(Index) 103
24 of 1969 — The Unlawful Activities (Prevention) Amendment Act, 1969 ...	(Dec) 67	48 of 1969 — The Appropriation (Railways) No. 5 Act, 1969 ...	(Index) 103
25 of 1969 — The Salaries and Allowances of Members of Parliament (Amendment) Act, 1969 ...	(Dec) 67	49 of 1969 — The Appropriation (No. 5) Act, 1969 ...	(Index) 103
26 of 1969—The Gold (Control) Amendment Act, 1969 ...	(Dec) 68	50 of 1969 — The Appropriation (No. 6) Act, 1969 ...	(Index) 104
27 of 1969—The Press Council (Amendment) Act, 1969 ...	(Dec) 72	51 of 1969 — The Manipur Appropriation Act, 1969 ...	(Index) 104
28 of 1969 — The Central Sales Tax (Amendment) Act, 1969 ...	(Dec) 72	52 of 1969 — The Bihar Appropriation Act, 1969 ...	(Index) 104
29 of 1969 — The Appropriation (Railways) No. 3 Act, 1969 ...	(Dec) 75	53 of 1969—The Indian Tariff (Amendment) Act, 1969 ...	(Index) 104
30 of 1969 — The Appropriation (Railways) No. 4 Act, 1969 ...	(Dec) 75	54 of 1969 — The Monopolies and Restrictive Trade Practices Act, 1969 ...	(Index) 105
31 of 1969 — The Appropriation (No. 4) Act, 1969 ...	(Dec) 75	55 of 1969 — The Assam Reorganisation (Meghalaya) Act, 1969 ...	(Index) 123
32 of 1969—The Bihar State Legislature (Delegation of Powers) Act, 1969 ...	(Dec) 75	56 of 1969 — The Motor Vehicles (Amendment) Act, 1969 ...	(Index) 146
33 of 1969—The Foreign Marriage Act, 1969 ...	(Dec) 76	—The Constitution (Twenty-third Amendment) Act, 1969 ...	(Index) 164
34 of 1969 — The Banaras Hindu University (Amendment) Act, 1969 ...	(Index) 83		

COMMENCEMENT OF AN ACT OF PARLIAMENT (or its Provision)

Banaras Hindu University (Amendment) Act, 1969 (34 of 1969), S. 1 (2)—Appointed date under—Said Act shall come into force on 5-9-1969 — Gaz. of Ind., 20-9-1969, Pt. II-S. 3 (i), p. 3002.

Banking Laws (Amendment) Act, 1968 (58 of 1968), S. 1 (2) — Appointed date under — 1-2-1969 appointed as the date on which said Act shall come into force—Gaz. of Ind., 18-1-69, Pt. II-S. 3(ii), p. 296.

Beedi and Cigar Workers (Conditions of Employment) Act, 1968 (32 of 1968), S. 1 (3) — Appointed date under — 1-1-1969 appointed as the date on which all the provisions of said Act shall come into force in State of Bihar — Bih. Gaz., 20-12-1968, Ext., p. 2.

Border Security Force Act, 1968 (47 of 1968), S. 1 (2) —Appointed date — Said Act shall come into force on 1-3-1969 — Gaz. of Ind., 20-2-1969, Pt. II-S. 3 (ii), Ext., p. 235.

Central Industrial Security Force Act, 1968 (50 of 1968), S. 1 (3) — Appointed date under— Said Act

shall come into force on 10-3-1969—Gaz. of Ind., 3-5-1969, Pt. II-S. 3 (ii), Ext., p. 291.

Delhi High Court (Amendment) Act, 1969 (37 of 1969), S. 1 (2) — Appointment of enforcement date — 1-10-1969 appointed as the date on which the said Act shall come into force — Gaz. of Ind., 24-9-1969, Pt. II-S. 3 (i), Ext., p. 629.

Drugs and Cosmetics (Amendment) Act, 1964 (13 of 1964), Ss. 25 and 26 and First Schedule—Enforcement of—Ss. 25 and 26 and First Schedule referred to in S. 31 of this Act shall come into force on 1-2-1969 — Gaz. of Ind., 25-1-1969, Pt. II-S. 3 (ii), p. 380.

Identification of Prisoners Act, 1920 (33 of 1920)—Appointed date—Lt. Governor appointed 1-3-1969 as the date on which said Act shall come into force in Pondicherry Union Territory — Pondi. Gaz., 28-2-1969, Ext.

Indian Ports Act, 1908 (15 of 1908), S. 4 (1) (a) and (2) — Extension to and defining local limits of —

Subject Index, A. I. R. 1969 Acts

- Provisions of said Act, extended to Port of Kanyakumari in Kanyakumari District with effect from 4-12-1968 and with reference to sub-s. (2) of S. 4 local limits of said Port defined as specified in schedule annexed to Notification — Ft. St. Geo. Gaz., 4-12-1968, Pt. II-S. I, p. 2027.
- Indian Ports Act, 1908 (15 of 1908), S. 4 (1) and (2) — Extension and defining local limits — Provisions of said Act extended to Port of Veppalodai in District of Tirunelveli and with reference to sub-s. (2) local limits of said Port defined as specified in Notification — Ft. St. Geo. Gaz., 11-12-1968, Pt. II-S. I, p. 2039.
- Indian Stamp (Goa, Daman and Diu Amendment) Act, 1968 (Goa Act 8 of 1969), S. 1 (3) — Appointed date under — Provisions of the said Act shall come into force on 1-7-1969 throughout the Union Territory of Goa, Daman and Diu — Goa Govt. Gaz., 28-6-1969, Seri. I No. 13, p. 295.
- Insurance (Amendment) Act, 1968 (62 of 1968), S. 1 (2) — Appointed date under — All the provisions of the said Act except Ss. 14 and 41, shall come into force on 1-6-1969 — Gaz. of Ind., 31-5-1969, Pt. II-S. 3 (ii), p. 2252.
- Jawaharlal Nehru University Act, 1966 (53 of 1966), S. 1 (2) — Appointment of date — 22-4-1969 appointed as the date on which said Act shall come into force — Gaz. of Ind., 26-4-1969, Pt. II-S. 3 (ii), p. 1443.
- Judges (Inquiry) Act, 1968 (51 of 1968), S. 1 (2) — Appointed date under — 1-1-69 appointed as the date on which the said Act shall come into force — Gaz. of Ind., 1-1-69 Pt. II-S. 3 (i), Ext., p. 5.
- Kazis Act, 1880 (12 of 1880) — Enforcement in Pondicherry Union Territory — Lt. Governor directed that said Act shall come into force on 1-10-1969 in Pondicherry Union Territory — Pondi. Gaz., 19-9-1969, Ext.
- Madras State (Alteration of Name) Act, 1968 (53 of 1968), S. 1 (2) — Appointed date under — 14-1-1969 appointed as date on which said Act shall come into force — Gaz. of Ind., 30-12-1968, Pt. II-S. 3 (ii), Ext., p. 1511.
- Official Languages Act, 1963 (19 of 1963), S. 6 — Appointed date for — Said S. 6 shall come into force on 19-5-1969 — Gaz. of Ind., 24-5-1969, Pt. II-S. 3 (ii), p. 2024.
- Pondicherry (Extension of Laws) Act, 1968 (26 of 1968), S. 3 (2) — Appointed date under — 18-12-1968 appointed as the date on which the following Acts shall come into force in Union Territory of Pondicherry:—
- (1) Legal Representatives' Suits Act, 1855 (12 of 1855);
 - (2) Indian Bills of Lading Act, 1856 (9 of 1856);
 - (3) Waste Lands (Claims) Act, 1863 (23 of 1863);
 - (4) Converts Marriage Dissolution Act, 1866 (21 of 1866);
 - (5) Court-fees Act, 1870 (7 of 1870) (as in force in Union Territory of Andaman and Nicobar Islands on 1-8-1966);
 - (6) Indian Contract Act, 1872 (9 of 1872);
 - (7) Indian Majority Act, 1875 (9 of 1875);
 - (8) Indian Easements Act, 1882 (5 of 1882);
 - (9) Powers of Attorney Act, 1882 (7 of 1882);
 - (10) Suits Valuation Act, 1887 (7 of 1887);
 - (11) Epidemic Diseases Act, 1897 (3 of 1897);
 - (12) Destruction of Records Act, 1917 (5 of 1917);
 - (13) Poisons Act, 1919 (12 of 1919);
 - (14) Indian Securities Act, 1920 (10 of 1920);
 - (15) Maintenance Orders Enforcement Act, 1921 (18 of 1921);
 - (16) Indian Boilers Act, 1923 (5 of 1923);
 - (17) Sale of Goods Act, 1930 (3 of 1930);
 - (18) Arbitration Act, 1940 (10 of 1940);
 - (19) Tariff Commission Act, 1951 (50 of 1951);
 - (20) Prize Competitions Act, 1955 (42 of 1955);
 - (21) Slum Areas (Improvement and Clearance) Act, 1956 (96 of 1956);
 - (22) Foreign Awards (Recognition and Enforcement) Act, 1961 (45 of 1961);
- Pondicherry Gaz., 17-12-1968, Ext., p. 1.
- Pondicherry (Extension of Laws) Act, 1968 (26 of 1968), S. 3 (2) — Appointed date under — Lt. Governor appointed 9-1-1969 as the date on which the Acts mentioned below shall come into force in Union Territory of Pondicherry:—
- (1) Transfer of Property Act, 1882 (4 of 1882);
 - (2) Indian Stamp Act, 1899 (2 of 1899) (as in force in State of Madras on 1-8-1966);
 - (3) Indian Registration Act, 1908 (16 of 1908)
- Pondicherry Gaz., 8-1-1969, Ext.
- Prisons Act, 1894 (9 of 1894) — Appointed date — Lt. Governor appointed 1-3-1969 as the date on which said Act shall come into force in Pondicherry Union Territory — Pondi. Gaz., 28-2-1969, Ext.
- Prisoners Act, 1900 (3 of 1900) — Appointed date — Lt. Governor appointed 1-3-69 as the date on which said Act shall come into force in Pondicherry Union Territory — Pondi. Gaz., 28-2-1969, Ext.
- Prisoners (Attendance in Courts) Act, 1955 (32 of 1955) — Appointed date — Lt. Governor appointed 1-3-1969 as the date on which said Act shall come into force in Pondicherry Union Territory — Pondi. Gaz., 28-2-1969, Ext.
- Probation of Offenders Act, 1958 (20 of 1958), S. 1 (3) — Appointed date under — 1-12-1968 appointed as the date on which said Act shall come into force in districts of East Godavari, Guntur, Chittoor, Khammam and Warangal of the A. P. State — A. P. Gaz., 5-12-1968, Pt. I, p. 2237.
- Religious Societies Act, 1880 (1 of 1880) — Enforcement in Pondicherry Union Territory — Lt. Governor directed that said Act shall come into force in Pondicherry Union Territory on 1-10-69 — Pondi. Gaz., 19-9-1969, Ext.
- Rice Milling Industry (Regulation) Act, 1958 (21 of 1958), S. 3 (2) — Appointment of date — 15-5-1969, appointed as the date on which the said Act shall come into force in the Union Territory of Pondicherry — Pondi. Gaz., 9-5-1969, Ext., p. 2.
- Salt Cess Act, 1953 (49 of 1953), S. 1 (3) — Appointed date under — Said Act shall come into force on 1-6-1969 in the Union Territory of Goa, Daman and Diu — Gaz. of Ind., 19-7-1969, Pt. II-S. 3 (ii), p. 2963.
- Seeds Act, 1966 (54 of 1966), S. 1 (3) — Appointment of date under — 1-10-1969 appointed as the date on which provisions of Ss. 7, 12 to 17 (both inclusive) and 19 to 21 both inclusive of the said Act shall come into force in the whole of India — Gaz. of Ind., 29-9-1969, Pt. II-S. 3 (ii), Ext., p. 1317.
- Transfer of Prisoners Act, 1950 (29 of 1950) — Appointed date — Lt. Governor appointed 1-3-1969 as the date on which said Act shall come into force in Pondicherry Union Territory — Pondi. Gaz., 28-2-1969, Ext.
- Union Territories (Separation of Judicial and Executive Functions) Act, 1969 (19 of 1969), S. 1 (3) — Appointment of date under — Said Act shall come into force on 2-10-1969 in all the areas of Delhi Union Territory — Gaz. of Ind., 17-9-1969, Pt. II-S. 3 (ii), Ext., p. 1273.
- Unlawful Activities (Prevention) Act, 1967 (37 of 1967), S. 1 (2), proviso — Appointed date under — Provisions of the said Act shall come into force in Jammu and Kashmir State on 1-9-1969 — Gaz. of Ind., 1-9-1969, Pt. II-S. 3 (i), Ext., p. 615.
- W. B. Legislative Council (Abolition) Act, 1969 (20 of 1969), S. 1 (2) — Appointed date under — Said Act shall come into force on 1-8-1969 — Gaz. of Ind., 28-7-1969, Pt. II-S. 3 (i), Ext., p. 549.

25. Certified copy of entries to be evidence.

Every certified copy purporting to be signed by the Marriage Officer of an entry of a marriage in the Marriage Certificate Book shall be received in evidence without production or proof of the original.

26. Correction of errors.

(1) Any Marriage Officer who discovers any error in the form or substance of any entry in the Marriage Certificate Book may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other witnesses, correct the error by entry in the margin without any alteration of the original entry and add thereto the date of such correction.

(2) Every correction made under this section shall be attested by the witnesses in whose presence it was made.

27. Act not to affect validity of marriages outside it.

Nothing in this Act shall in any way affect the validity of a marriage solemnized in a foreign country otherwise than under this Act.

28. Power to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the duties and powers of Marriage Officers and their districts;

(b) the manner in which a Marriage Officer may hold any inquiry under this Act;

(c) the manner in which notices of marriage shall be published;

(d) the places in which and the hours between which marriages under this Act may be solemnized;

(e) the form and the manner in which any books required by or under this Act to be kept shall be maintained;

(f) the form and manner in which certificates of marriages may be entered under sub-section (5) of section 17;

(g) the fees that may be levied for the performance of any duty imposed upon a Marriage Officer under this Act;

(h) the authorities to which, the form in which and the intervals within which copies of entries in the Marriage Certificate Book shall be sent, and, when corrections are made in the Marriage Certificate Book, the manner

in which certificates of such corrections shall be sent to the authorities;

(i) the inspection of any books required to be kept under this Act and the furnishing of certified copies of entries therein;

(j) the manner in which and the conditions subject to which any marriage may be recognized under section 23;

(k) any other matter which may be, or requires to be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

29. Amendment of Act 43 of 1954.

In the Special Marriage Act, 1954,—

(a) in section 1, in sub-section (2), for the words "outside the said territories," the words "in the State of Jammu and Kashmir" shall be substituted;

(b) in section 2, clauses (a) and (c) shall be omitted:

(c) in section 3, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) For the purposes of this Act, in its application to citizens of India domiciled in the territories to which this Act extends who are in the State of Jammu and Kashmir, the Central Government may, by notification in the Official Gazette, specify such officers of the Central Government as it may think fit to be the Marriage Officers for the State or any part thereof;"

(d) in section 4, for clause (e), the following clause shall be substituted, namely:—

"(e) where the marriage is solemnized in the State of Jammu and Kashmir, both parties are citizens of India domiciled in the territories to which this Act extends;"

(e) in section 10, for the words "outside the territories to which this Act extends in respect of an intended marriage outside the said territories," the words "in the State of Jammu and Kashmir in respect of an intended marriage in the State" shall be substituted;

(f) in section 50, in sub-section (1), the words "diplomatic and consular officers and other" shall be omitted.

30. Repeal.
The Indian Foreign Marriage Act, 1908, is hereby repealed.

THE FIRST SCHEDULE
(See section 5)

FORM OF NOTICE OF INTENDED MARRIAGE

To
The Marriage Officer
for.....
We hereby give you notice that a marriage under the Foreign Marriage Act, 1969 is intended to be solemnized between us within three months from the date hereof.

Name and father's name	Condition	Occupation	Date of birth	Dwelling place	Permanent dwelling place and present dwelling place if not permanent	Length of residence in the present dwelling place
A.B.	Unmarried					
	Widower					
	Divorcee					
O.D.	Unmarried					
	Widow					
	Divorcee					

Witness our hands, this.....day of.....
19.....
Sd. A.B.
Sd. O.D.

THE SECOND SCHEDULE
(See section 12)

DECLARATION TO BE MADE BY THE
BRIDEGROOM

I, A.B., hereby declare as follows :—
1. I am at the present time unmarried (or a widower or a divorcee, as the case may be).
2. I have completed.....years of age.
3. I am not related to O.D. (the bride) within the degrees of prohibited relationship.
4. I am a citizen of.....
(to be filled up)
5. I am aware that, if any statement in this declaration is false, I am liable to imprisonment and also to fine.
Sd. A.B. (the bridegroom)

DECLARATION TO BE MADE BY THE
BRIDE

I, O.D., hereby declare as follows:—
1. I am at the present time unmarried (or a widow, or a divorcee, as the case may be).

2. I have completed.....years of age,
3. I am not related to A.B. (the bridegroom) within the degrees of prohibited relationship.
4. I am a citizen of.....
(to be filled up)
5. I am aware that, if any statement in this declaration is false, I am liable to imprisonment and also to fine.
Sd. O.D. (the bride)

Signed in our presence by the above named A.B. and O.D. So far as we are aware, there is no lawful impediment to the marriage.

Sd. G.H. }
Sd. I.J. } Three witnesses.
Sd. K.L. }

(Countersigned) E.F.
Marriage Officer

Dated the.....day of.....19.....

THE THIRD SCHEDULE

(See section 14)

FORM OF CERTIFICATE OF MARRIAGE

I, E.F., hereby certify that on the..... day of.....19.....A.B. and C.D.....
*appeared before me and that the declaration required by section.....† of the Foreign Marriage Act, 1969, was duly made, and that a marriage under that Act was solemnized between them in my presence and in the presence of three witnesses who have signed hereunder.

Sd. E.F.

Marriage Officer.

Sd. A.B. (bridegroom)

Sd. C.D. (bride)

Sd. G.H.

Sd. I.J.

Sd. K.L.

} Three witnesses.

Dated theday of.....19.....

*Herein give particulars of the parties.

†To be entered.

THE BANARAS HINDU UNIVERSITY (AMENDMENT) ACT, 1969

(Act 34 of 1969)*

[31st August, 1969]

An Act further to amend the Banaras Hindu University Act, 1915.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows :—

1. Short title and commencement.

(1) This Act may be called the Banaras Hindu University (Amendment) Act, 1969.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 7B.

In section 7B of the Banaras Hindu University Act, 1915 (hereinafter referred to as the principal Act),—

(i) for sub-sections (1) and (2), the following sub-section shall be substituted, namely :—

"(1) The Vice-Chancellor shall be appointed by the Visitor on the recommendation of a Selection Committee constituted by the Visitor for the purpose:

*Received the assent of the President on 31.8.1969. Act published in Gaz. of Ind., 31.8.1969, Pt. II-S. 1, Ext., p. 355.

For Statement of Objects and Reasons, see Gaz. of Ind., 12.8.1969, Pt. II-S. 2, Ext., p. 817.

Provided that, if the Visitor does not approve of such recommendation, he may call for one or more fresh recommendations.";

(ii) in sub-section (4), for the words "five years," the words "three years" and for the words "ineligible for re-appointment to that office," the words "eligible for re-appointment to that office for a second term" shall be substituted.

3. Amendment of section 7C.

In section 7C of the principal Act,—

(i) in sub-section (2), the words, "the Standing Committee of the Academic Council" shall be omitted;

(ii) in sub-section (4), for the words, "the Academic Council and the Standing Committee of the Academic Council," the words "and the Academic Council" shall be substituted.

4. Amendment of section 8A.

In section 8A of the principal Act, clause (d) shall be omitted.

5. Substitution of new section for sections 9 and 9A.

For sections 9 and 9A of the principal Act the following section shall be substituted namely :—

The Court.

"9. The Court shall be an advisory body and its functions shall be—

(a) to advise the Visitor in respect of any matter which may be referred to it for advice;

(b) to advise any authority of the University in respect of any matter which may be referred to the Court by such authority; and

(c) to perform such other duties and exercise such other powers as may be assigned to it by the Visitor or under this Act."

6. Amendment of section 10.

In section 10 of the principal Act, in sub-section (1), for the word "Court," the word "Visitor" shall be substituted.

7. Omission of section 12.

Section 12 of the principal Act shall be omitted.

8. Amendment of section 13.

In section 13 of the principal Act, in sub-section (2), the words "to the Court and" shall be omitted.

9. Amendment of section 17.

In section 17 of the principal Act,—

(i) in sub-section (1),—

(a) in clause (b), for the words "the election and appointment," the words "the appointment by election, nomination or otherwise" shall be substituted;

(b) in clause (r), the words "the Standing Committee of the Academic Council," shall be omitted;

(ii) sub-section (7) shall be re-numbered as sub-section (4) and for sub-sections (3), (4), (5) and (6), the following sub-section shall be substituted, namely :—

"(3) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes."

10. Amendment of section 18.

In section 18 of the principal Act, for sub-sections (5), (6), (7) and (8), the following sub-sections shall be substituted, namely:—

"(5) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Visitor who may pass such order thereon as he thinks fit.

(6) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Visitor who may disallow any such Ordinance or remit it to the Executive Council for further consideration.

(7) The Visitor may, by order, direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance, and any order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order."

11. Amendment of section 19.

In section 19 of the principal Act, in the proviso to sub-section (3), for the word "Court," the word "Visitor" shall be substituted.

12. Amendment of Statutes.

Notwithstanding anything contained in the principal Act, the Statutes of the University shall be amended as follows:—

(i) in Statute 9, for clause (3), the following clause shall be substituted, namely:—

"(3) The Rector shall hold office for only so long as the Vice-Chancellor on whose recommendation he was appointed holds office and he shall be eligible for re-appointment:

Provided that notwithstanding the expiry of the term of his office, the Rector shall continue in office until his successor is appointed and enters upon his office."

(ii) in Statute 4,—

(a) in clause (3), the words "the Standing Committee of the Academic Council," shall be omitted;

(b) in clause (4),—

(2) in sub-clause (b), the words "the Finance Committee, the Standing Committee of the Academic Council," shall be omitted;

(2) in sub-clause (c), the words "the Standing Committee of the Academic Council, the Finance Committee," shall be omitted;

(3) in sub-clause (d), for the words "the Academic Council and the Standing Committee of the Academic Council", the words "and the Academic Council" shall be substituted;

(iii) for Statute 10, the following Statute shall be substituted, namely:—

The Court.

"10. (1) The Court shall consist of the following members, namely:—

(a) the Chancellor, *ex officio*,

(b) the members of the Executive Council, *ex officio*,

(c) three persons, being Heads of Departments of Studies or Principals of Colleges of the University, nominated by the Visitor,

(d) two persons, being Professors from Departments of Studies or Colleges of the University, nominated by the Visitor,

(e) two persons from among teachers of the University, other than Professors, nominated by the Visitor,

(f) three representatives of Parliament, two to be nominated by the Speaker of the Lok Sabha from among the members thereof and one to be nominated by the Chairman of the Rajya Sabha from among the members thereof, and

(g) thirty persons nominated by the Visitor from among persons who are men of standing in public life or have special knowledge or practical experience in education or have rendered eminent services in the cause of education.

(2) Seventeen members of the Court shall form the quorum.

(3) All members of the Court, other than *ex officio* members, shall hold office for a term of three years."

(iv) for Statute 14, the following Statute shall be substituted, namely:—

The Executive Council.

"14. (1) The Executive Council shall consist of the members, namely:—

(a) the Vice-Chancellor, *ex officio*,

(b) eight persons nominated by the Visitor.

(2) Five members of the Executive Council shall form the quorum.

(3) The members of the Executive Council shall hold office for a term of three years."

(v) in Statute 15, in clause (x), the words "the Standing Committee of" shall be omitted;

(vi) in Statute 18,—

(a) in clause (i), the words "the Court or" shall be omitted;

(b) clause (xv) shall be re-numbered as clause (xxv) and after clause (xiv), the following clauses shall be inserted, namely:—

"(xv) to fix, subject to any conditions accepted by the Executive Council, the time, mode and conditions of competition for fellowships, scholarships and other prizes and to award the same;

(xvi) to conduct examinations in conformity with the Ordinances and to fix dates for holding them;

(xvii) to declare the results of the various University examinations, or to appoint committees or officers to do so, and to make recommendations regarding the conferment or grant of degrees, honours, diplomas, certificates, titles and marks of honour;

(xviii) to award stipends, scholarships, medals, prizes and to make awards in accordance with the Ordinances and such other conditions as may be attached to the awards;

(xix) to make recommendations to the Executive Council in regard to the appointment of examiners, and if necessary, their removal and the fixation of their fees, emoluments and the travelling and other allowances and the appointment of Boards of Examiners and Moderators;

(xx) to appoint, whenever necessary, Inspectors or Boards of Inspectors for inspecting colleges and institutions applying for admission to the privileges of the University;

(xxi) to publish lists of prescribed or recommended text-books and to publish syllabuses of the prescribed courses of study;

(xxii) to prepare such forms and registers as are, from time to time, prescribed by the Ordinances;

(xxiii) to appoint committees, for admission to the University;

(xxiv) to appoint, subject to the provisions of Statute 26, committees for such specific purposes as it may deem necessary; and";

(vii) Statutes 19 and 20 shall be omitted;

(viii) for clauses (1) and (3) of Statute 21, the following clauses shall respectively be substituted, namely:—

"(1) The Finance Committee shall consist of the following members, namely:—

(i) the Vice-Chancellor;

(ii) three persons nominated by the Vistor;

(iii) two persons, who are not employees of the University, appointed by the Executive Council;

(iv) two Deans of Faculties by rotation according to seniority for a term of two years.";

"(3) Four members of the Finance Committee shall form the quorum.";

(ix) in Statute 36,—

(a) in clause (1), in condition (iii), the words "the Standing Committee of" shall be omitted;

(b) in clause (3), the words "the Standing Committee of", wherever they occur, shall be omitted.

13. Transitional provisions.

(1) Every person holding office as a member of the Court or the Executive Council or the Finance Committee, as the case may be, immediately before the commencement of this Act shall, on and from such commencement, cease to hold office as such:

Provided that where any such person held, immediately before such date, any other office in the University, nothing contained in this sub-section shall be construed to affect this continuance in such other office.

(2) Until the Court or the Executive Council or the Finance Committee is constituted in accordance with the provisions of the principal Act as amended by this Act or the Statutes as modified by this Act, the Visitor may, by general or special order, direct any officer of the University to exercise the powers and perform the duties conferred or imposed by or under the principal Act as so amended or the Statutes as so modified on the Court or the Executive Council or the Finance Committee, as the case may be.

(3) Notwithstanding anything contained in the principal Act or the Statutes immediately before the commencement of this Act, where this Act modifies the method of appointment to an office or the term of office of the holder thereof, the holder of such office shall, unless he resigns his office and his resignation is accepted under Statute 30, continue to exercise the functions of that office until his successor is appointed in accordance with the provisions of the principal Act as amended by this Act or the Statutes as modified by this Act and enters upon his office; and for the removal of doubts, it is hereby declared that a person holding any such office as aforesaid immediately before the commencement of this Act shall be eligible for re-appointment to that office.

1	2	3	4	5	6	7	8
"153A(1)	Promoting enmity between classes.	May arrest without warrant	Warrant	Not bailable.	Ditto	Imprisonment of either description for three years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
253A(2)	Promoting enmity between classes in place of worship, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for five years and fine.	Ditto.";

(II) for the entry in column 3 relating to section 154, the entry "Shall not arrest without warrant" shall be substituted;

(III) for the entries in columns 1 to 8 relating to section 505, the following entries shall be substituted, namely :—

1	2	3	4	5	6	7	8
"505(1)	False statement, rumour etc., with intent to cause mutiny or offence against the public peace.	Ditto	Ditto	Not bailable.	Not compoundable.	Imprisonment of either description for three years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
505(2)	False statement, rumour, etc., with intent to create enmity, hatred or ill-will between different classes.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for three years or fine, or both.	Ditto.
505(3)	False statement, rumour, etc., made in place of worship, etc., with intent to create enmity, hatred or ill-will.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for five years and fine.	Ditto.";

(iv) for the entries in columns 3 and 7 relating to section 506 as applicable to "Criminal intimidation" (first paragraph), the entries "Shall not arrest without warrant" and "Imprisonment of either description for 2 years, or fine, or both" shall, respectively, be substituted.

5. Amendment of section 8.

In section 8 of the Representation of the People Act, 1951, in sub-section (1), for the words, figures and letters "section 171E or section 171F of the Indian Penal Code," the words, figures and letters "section 153A or section 171E or section 171F or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code" shall be substituted.

6. Power to control prejudicial publications.

(1) The Central Government or State Government or any authority so authorised by the Central Government in this behalf, if satisfied that such action is necessary for the purpose of preventing or combating any activity prejudicial to the maintenance of communal harmony and affecting or likely to affect public order, may, by order in writing addressed to the printer, publisher or editor, prohibit the printing or publication of any document or any class of documents of any matter relating to a particular subject or class of subjects for a specified period or in a particular issue or issues of a newspaper or periodical:

Provided that no such order shall remain in force for more than two months from the making thereof:

Provided further that the person against whom the order has been made may, within ten days of the communication of the order, make a representation,—

(i) to the Central Government, where such order is made by the Central Government or any authority authorised by it; and

(ii) to the State Government, where such order is made by the State Government, and the Central Government or the State Government, as the case may be, may, after consultation with a Committee, to be known as Press Consultative Committee, dispose of the matter, modifying, confirming or rescinding the order.

(2) In the event of disobedience of an order made under sub-section (1), the Central Government or the State Government or the authority issuing the order, as the case may be, may, without prejudice to any other penalty to which the person guilty of the disobedience is liable under this Act or under any other law for the time being in force, direct

that copies of the publication made in violation of an order made under sub-section (1) be seized, and that any printing press or other instrument or apparatus used in the publication be closed down for the period such order is in operation.

7. Penalty.

Whoever contravenes, disobeys or neglects to comply with any order made under section 8 of this Act, shall, on conviction, be punished with imprisonment of either description which may extend to one year, or with fine up to one thousand rupees, or with both.

8. Composition of the Press Consultative Committee and rules in respect thereof.

(1) A Press Consultative Committee referred to in the second proviso to sub-section (1) of section 6, shall consist of such number of persons, being editors, publishers and journalists, as may be prescribed by rules made under this section.

(2) The Central Government may make rules for the constitution of Press Consultative Committees, the term of office of the members of such Committees, the allowances, if any, to be paid to such members for attending the meetings of the Committee and the manner of filling casual vacancies among them, and for all matters connected therewith or incidental thereto.

(3) In particular, and without prejudice to the generality of the foregoing power under sub-section (2), such rules may provide for all or any of the following matters, namely:—

(a) the number of persons who may be appointed as members of a Press Consultative Committee and the class or category of persons from whom such members are to be appointed;

(b) the authority or authorities which may make such appointments;

(c) the procedure to be followed by the Central Government or the State Government, as the case may be, in consulting the Press Consultative Committee;

(d) the procedure to be followed by the Press Consultative Committee;

(e) any other matter for which rules have to be made for enabling the Press Consultative Committee to function.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses

agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE INDIAN PENAL CODE (AMENDMENT) ACT, 1969 (Act 36 of 1969)*

[7th September, 1969]

An Act further to amend the Indian Penal Code and to provide for matters incidental thereto.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title.

This Act may be called the Indian Penal Code (Amendment) Act, 1969.

2. Amendment of section 292 of Act 45 of 1860.

In the Indian Penal Code,—

(a) section 292 shall be re-numbered as sub-section (2) thereof and before sub-section (2), as so re-numbered, the following sub-section shall be inserted, namely:—

"(1) For the purposes of sub-section (2), a book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.";

(b) in sub-section (2) of section 292, as so re-numbered,—

(i) for the words "with imprisonment of either description for a term which may extend to three months, or with fine, or with both," the words "on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five

years, and also with fine which may extend to five thousand rupees" shall be substituted;

(ii) for the *Exception*, the following *Exception* shall be substituted, namely:—

"*Exception*.—This section does not extend to—

(a) any book, pamphlet, paper, writing, drawing, painting, representation or figure—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern, or

(ii) which is kept or used *bona fide* for religious purposes;

(b) any representation sculptured, engraved, painted or otherwise represented on or in—

(i) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, or

(ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.";

(c) in section 293, for the words "with imprisonment of either description for a term which may extend to six months, or with fine, or with both," the words "on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees" shall be substituted.

3. Amendment of sections 99A, 108 and Schedule II of Act 5 of 1898.

In the Code of Criminal Procedure, 1898,—

(a) in sub-section (1) of section 99A,—

(i) for the words "seditious matter," the words "seditious or obscene matter," and

(ii) for the words "punishable under section 124A or section 153A or section 295A," the words "punishable under section 124A or section 153A or section 292 or section 293 or section 295A", shall be substituted;

(b) In section 108,—

(1) after the words "who, within or without such limits", the brackets and figure "(i)" shall be inserted;

(2) after clause (c), the following shall be inserted, namely:—

"(ii) makes, produces, publishes or keeps for sale, imports, exports, conveys, sells, lets to hire, distributes, publicly exhibits or in any other manner puts into circulation any obscene

* Received the assent of the President on 7-9-1969. Act published in Gaz. of Ind. 8-9 1969, Pt. II, S. 1, Ext., p. 667.

matter such as is referred to in section 292 of the Indian Penal Code,";

(c) in Schedule II, for the entries relating to sections 292 and 293 of the Indian Penal Code, the following entries shall be substituted, namely:—

1	2	3	4	5	6	7	8
"292	Sale, etc., of obscene books, etc.	May arrest without warrant.	Warrant.	Bailable.	Not compoundable.	On first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees.	Court of Session
293	Sale, etc., of obscene objects to young persons.	May arrest without warrant.	Warrant.	Bailable.	Not compoundable.	On first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees.	Court of Session".

THE DELHI HIGH COURT (AMENDMENT) ACT, 1969

(Act 37 of 1969)*

[9th September, 1969]

An Act to amend the Delhi High Court Act, 1966.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the Delhi High Court (Amendment) Act, 1969.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new section 3A.

In the Delhi High Court Act, 1966 (hereinafter referred to as the principal Act), after section 3, the following section shall be inserted, namely:—

Salaries and allowances of Judges to be expenditure charged on Consolidated Fund of India.

"3A. Expenditure in respect of the salaries and allowances of Judges of the High Court of Delhi shall be expenditure charged on the Consolidated Fund of India."

3. Amendment of section 5.

In sub-section (2) of section 5 of the principal Act, for the words "twenty-five thousand rupees," the words "fifty thousand rupees" shall be substituted.

4. Amendment of section 17.

In sub-section (3) of section 17 of the principal Act, in clause (b), for the words "twenty-five thousand rupees," the words "fifty thousand rupees" shall be substituted.

5. Amendment of certain laws.

(1) In section 25 of the Punjab Courts Act, 1918, as in force in the Union territory of Delhi, for the words "twenty-five thousand rupees," the words "fifty thousand rupees" shall be substituted.

(2) In the Himachal Pradesh (Courts) Order, 1948, in paragraph 20, for the words "twenty-five thousand rupees," the words "fifty thousand rupees" shall be substituted.

* Received the assent of the President on 9.9.1969. Act published in Gaz. of Ind., 9.9.1969, Pt. II S. 1, Ext., p. 871.

For Statement of Objects and Reasons, see Gaz., of Ind., 15.11.1968, Pt. II S. 2, Ext., p. 1186.

6. Power of Chief Justice to transfer pending suits and proceedings to subordinate courts.

The Chief Justice of the High Court of Delhi may transfer any suit or other proceedings which is or are pending in the High Court immediately before the commencement of this Act and in which no witnesses have been examined before such commencement to such subordinate court in the Union territory of Delhi or, as the case may be, Himachal Pradesh as would have jurisdiction to entertain such suit or proceedings had such suit or proceedings been instituted or filed for the first time after such commencement.

THE CONSTITUTION (TWENTY-SECOND AMENDMENT)

ACT, 1969†

[25th September, 1969.]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title.

This Act may be called the Constitution (Twenty-second Amendment) Act, 1969.

2. Insertion of new article 244A.

In Part X of the Constitution, after article 244, the following article shall be inserted, namely:—

Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor.

"244A. (1) Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether wholly or in part) all or any of the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule and create therefor—

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the autonomous State, or

(b) a Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.

† Received the assent of the President on 25.9.1969. Act published in Gaz. of Ind., 26.9.1969, Pt. ILS. 1, Ext. r. 978.

For Statement of Objects and Reasons, see Gaz. of Ind., 10.4.1969, Pt. ILS. 2, Ext., p. 406.

(2) Any such law as is referred to in clause (1) may, in particular,—

(a) specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the State of Assam or otherwise;

(b) define the matters with respect to which the executive power of the autonomous State shall extend;

(c) provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State;

(d) provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State; and

(e) make such supplemental, incidental and consequential provisions as may be deemed necessary.

(3) An amendment of any such law as aforesaid in so far as such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds of the members present and voting.

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution."

3. Amendment of article 275.

In article 275 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

"(1A) On and from the formation of the autonomous State under article 244A,—

(i) any sums payable under clause (a) of the second proviso to clause (1) shall, if the autonomous State comprises all the tribal areas referred to therein, be paid to the autonomous State, and, if the autonomous State comprises only some of those tribal areas, be apportioned between the State of Assam and the autonomous State as the President may, by order, specify;

(ii) there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous State sums, capital and recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous State with the approval of the Government of India for the purpose of raising the level of administration of that

State to that of the administration of the rest of the State of Assam."

4. Insertion of new article 371B.

After article 371A of the Constitution, the following article shall be inserted, namely:—

Special provision with respect to the State of Assam.

"371B. Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee."

THE WAKF (AMENDMENT) ACT, 1969

(ACT 38 OF 1969)*

[2nd December, 1969].

An Act further to amend the Wakf Act, 1954.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows.—

1. Short title.

This Act may be called the Wakf (Amendment) Act, 1969.

2. Amendment of Section 2.

In Section 2 of the Wakf Act, 1954 (hereinafter referred to as the principal Act), in the proviso, for the words, figures and brackets "the Durgah Khawaja Saheb Act, 1936 and the Durgah Khawaja Saheb (Emergency Provisions) Act, 1950, apply", the words and figures "the Durgah Khawaja Saheb Act, 1955, applies" shall be substituted.

3. Amendment of Section 3.

In Section 3 of the principal Act, for clause (g), the following clause shall be and shall be deemed always to have been, substituted, namely:—

"(g) "net annual income", in relation to a wakf, means the gross income thereof from all sources in a year excluding only—

(i) land revenue, cess, rates and taxes payable to the Government or any local authority; and

* Received the assent of the President on 2-12-1969. Act published in Gaz. of Ind. 3-12-1969, Pt. II-S. 1, Ext. p. 381.

For Statement of Objects and Reasons, see Gaz. of India, 17-5-1969, Pt. II-S. 2, Ext. p. 492.

(ii) donations given or offerings made with a specific direction that they shall form part of the corpus of the wakf:

Provided that the interest or income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income;.

4. Amendment of Section 4.

In Section 4 of the principal Act, in sub-section (3),—

(a) after the words "submit his report" the words "in respect of wakfs existing at the date of the commencement of this Act in the State or any part thereof," shall be and shall be deemed always to have been inserted; and

(b) in clause (a), for the words "in the State", the words "in the State, or as the case may be, any part thereof" shall be, and shall be deemed always to have been substituted.

5. Amendment of Section 5.

In Section 5 of the principal Act, in sub-section (2), for the words "existing in the State", the words "existing in the State, or as the case may be, the part of the State to which the report relates, and" shall be, and shall be deemed always to have been, substituted.

6. Amendment of Section 6.

In Section 6 of the principal Act, in sub-section (1),—

(a) for the words "whether a particular property is wakf property or not or whether a wakf is a Shia wakf or Sunni wakf", the words "whether a particular property specified as wakf property in a list of wakfs published under sub-section (2) of section 5 is wakf property or not or whether a wakf specified in such list is a Shia wakf or Sunni wakf" shall be, and shall be deemed always to have been substituted; and

(b) after the proviso the following proviso shall be inserted, namely:—

"Provided further that in the case of the list of wakfs relating to any part of the State and published or purporting to have been published before the commencement of the Wakf (Amendment) Act, 1969, such suit may be entertained by the civil court within the period of one year from such commencement."

7. Amendment of Section 7.

In Sec. 7 of the principal Act, in sub-section (1),—

(a) for the words "publication of the list of wakfs", the words "publication of the list or lists of wakfs" shall be substituted; and

(b) for the words "by all the mutawallis in proportion to the income of the property of the wakfs situated in the State", the words "by all the mutawallis of the wakfs the net annual income whereof exceeds one hundred rupees, in proportion to the net annual income accruing in the State to such wakfs" shall be substituted.

8. Amendment of Section 8B.

In Section 8B of the principal Act, in sub-section (1), the words "of the properties" and the words "of the property" shall be omitted.

9. Amendment.

In Section 46 of the principal Act, in sub-section (1), for the words "net annual income of such of its property as is situate in the State", the words "net annual income accruing in the State to the wakf" shall be, and shall be deemed always to have been, substituted.

10. Special provisions as to certain lists of wakfs published under sub-section (2) of Section 5.

Notwithstanding anything contained in any judgment, decree or order of any Court to the contrary, and subject to the provisions of the second proviso to sub-section (1) of section 6 of the principal Act as amended by this Act, every list of wakfs purporting to be a list of wakfs existing at the date of the commencement of the principal Act in any part of a State and published or purporting to have been published under sub-s. (2) of S. 5 of the principal Act, before the commencement of the Wakf (Amendment) Act, 1969, shall be deemed to be, and shall be deemed always to have been, published in accordance with law.

11. Validation of contributions paid or realised under Section 46.

Notwithstanding anything contained in any law or any judgment, decree or order of any court, all contributions paid or realised, or purporting to have been paid or realised, under Section 46 of the principal Act, which would have been validly paid or realised if the amendments made to the principal Act by this Act were in force on the date of such payment or realisation, shall, for all purposes, be deemed to be, and shall be deemed always to have been, paid or realised in accordance with law, and accordingly—

(a) no suit or other legal proceeding shall be maintained or continued in any court for the refund of the whole or any part of the contribution so paid or realised; and

(b) no court shall enforce any decree or order directing the refund of the whole or any part of the contribution so paid or realised.

THE OILFIELDS (REGULATION AND DEVELOPMENT) AMENDMENT ACT, 1969

(ACT 39 OF 1969)*

[20th December, 1969]

An Act further to amend the Oilfields (Regulation and Development) Act, 1948.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the Oilfields (Regulation and Development) Amendment Act, 1969.

* Received the assent of the President on 20-12-1969. Act published in Gaz. of India, 20-12-1969, Pt. II-S. 1, Ext. p. 385.

For Statement of Objects and Reasons, see Gaz. of India, 21-7-1969, Pt. II-S. 2, Ext. p. 605.

94 [Act 40] THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ACT, 1969 A. I. R.

(2) It shall be deemed to have come into force on the 1st day of January, 1968.

2. Amendment of section 6.

In sub-section (2) of Section 6 of the Oilfields (Regulation and Development) Act, 1948 (hereinafter referred to as the principal Act), for clause (i), the following clause shall be substituted, namely:—

“(i) the collection of royalties, and the levy and collection of fees or taxes, in respect of mineral oils mined, quarried, excavated or collected.”

3. Insertion of new Section 6A.

After Section 6 of the principal Act, the following section shall be inserted, namely:—

Royalties in respect of mineral oils.

“6A. (1) The holder of a mining lease granted before the commencement of the Oilfields (Regulation and Development) Amendment Act, 1969, still, notwithstanding anything contained in the instrument of lease or in any law in force at such commencement, pay royalty in respect of any mineral oil mined, quarried, excavated or collected by him from the leased area after such commencement, at the rate for the time being specified in the Schedule in respect of that mineral oil.

(2) The holder of a mining lease granted on or after the commencement of the Oilfields (Regulation and Development) Amendment Act, 1969, shall pay royalty

in respect of any mineral oil mined, quarried, excavated or collected by him from the leased area at the rate for the time being specified in the Schedule in respect of that mineral oil.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no royalty shall be payable in respect of any crude oil, casing-head condensate or natural gas which is unavoidably lost or is returned to the reservoir or is used for drilling or other operations relating to the production of petroleum, or natural gas, or both.

(4) The Central Government may, by notification in the Official Gazette, amend the Schedule so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral oil with effect from such date as may be specified in the notification:

Provided that the Central Government shall not—

(a) fix the rate of royalty in respect of any mineral oil so as to exceed twenty per cent of the sale price of the mineral oil at the oilfields or the oil well-head, as the case may be, or

(b) enhance the rate of royalty in respect of any mineral oil more than once during any period of four years.”

4. Insertion of new Schedule.

After Section 14 of the principal Act, the following Schedule shall be inserted, namely:—

“THE SCHEDULE (See Section 6A) RATES OF ROYALTY

1. Crude oil:
2. Casing-head condensate:
3. Natural gas:

Rupees ten per metric tonne.
Rupees ten per metric tonne.
Ten per cent of the value of the natural gas obtained at well-head.”

THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ACT, 1969

(ACT 40 OF 1969)*

[26th December, 1969]

An Act further to amend the Foreign Exchange Regulation Act, 1947.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title.

This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1969.

2. Amendment of Section 12.

In Section 12 of the Foreign Exchange Regulation Act, 1947 (hereinafter referred to as the principal Act), for sub-section

(1), the following sub-section shall be substituted, namely:—

“(1) The Central Government may, by notification in the Official Gazette, prohibit the taking or sending out by land, sea or air (hereinafter in this section referred to as export) of all goods or of any goods or class of goods specified in the notification from India directly or indirectly to any place so specified unless the exporter furnishes to the prescribed authority a declaration in the prescribed form supported by such evidence as may be prescribed or so specified and true in all material particulars which, among others, shall include the amount representing —

(i) the full export value of the goods; or

(ii) if the full export value of the goods is not ascertainable at the time of export the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in the course of international trade, and affirms in the said declaration that the full export value of the goods (when

* Received the assent of the President on 26-12-1969. Act published in Gaz. of India, 26-12-1969, Pt. II, S. 1, ExL p, 393.

ther ascertainable at the time of export or not) has been, or will within the prescribed period be, paid in the prescribed manner.”.

3. Amendment of Section 23A.

In Section 23A of the principal Act, for the words, brackets and figures “the restrictions imposed by sub-sections (1) and (2) of Section 8”, the words, brackets and figures, “the restrictions imposed by or under sub-sections (1) and (2) of Section 8” shall be substituted.

4. Repeal and saving.

(1) The Foreign Exchange Regulation (Amendment) Ordinance, 1969 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 13th day of November, 1969.

THE INTERNATIONAL MONETARY FUND AND BANK (AMENDMENT) ACT, 1969

(ACT 41 OF 1969)*

[26th December, 1969]

An Act further to amend the International Monetary Fund and Bank Act, 1945.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the International Monetary Fund and Bank (Amendment) Act, 1969.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of Section 2.

In section 2 of the International Monetary Fund and Bank Act, 1945 (hereinafter referred to as the principal Act), in sub-section (1),—

(a) for the words “There shall be paid out of the Consolidated Fund of India”, the words “There shall be paid, after due appropriation made by Parliament by law in this behalf, out of the Consolidated Fund of India” shall be substituted;

(b) in clause (c), after the words and figures “under Section 8 of Article V”, the words and figures, “or under Section 2, Section 3 or Section 5 of Article XXVI,” shall be inserted;

(c) after clause (d), the following clause shall be inserted, namely:—

“(dd) any assessments required to be paid by the Central Government to the

International Fund under Section 4 or Section 5 of Article XXVI of the Fund Agreement;”.

3. Insertion of new Section 3A.

After Section 3 of the principal Act, the following section shall be inserted, namely:—

Reserve Bank to use, receive, acquire etc., special drawing rights on behalf of Central Government.

“3-A. The Reserve Bank may, on behalf of the Central Government, use, receive, acquire, hold, transfer or operate the special drawing rights of that Government in the International Fund and perform all acts supplemental or incidental thereto.”.

THE BIHAR LAND REFORMS LAWS (REGULATING MINES AND MINERALS) VALIDATION ACT, 1969

(ACT 42 OF 1969)†

[26th December, 1969].

An Act to validate certain provisions contained in the Bihar Land Reforms Act, 1950, and the Bihar Minor Mineral Concession Rules, 1964, and action taken and things done in connection therewith.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title.

This Act may be called the Bihar Land Reforms Laws (Regulating Mines and Minerals) Validation Act, 1969.

2. Validation of certain Bihar State laws and action taken and things done connected therewith.

(1) The laws specified in the Schedule shall be, and shall be deemed always to have been, as valid as if the provisions contained therein had been enacted by Parliament.

(2) Notwithstanding any judgment, decree or order of any court, all action taken things done, rules made, notifications issued or purported to have been taken, done, made or issued and rents or royalties realised under any such laws shall be deemed to have been validly taken, done, made issued or realised, as the case may be, as if this section had been in force at all material times when such action was taken, things were done, rules were made, notifications were issued, or rents or royalties were realised, and no suit or other proceeding shall be maintained or continued in any court for the refund of rents or royalties realised under any such laws.

(3) For the removal of doubts, it is hereby declared that nothing in sub-section

* Received the assent of the President on 26-12-1969. Act published in Gaz. of India, 26-12-1969, Pt. II-S. 1, Ext. p. 394.

For Statement of Objects and Reasons, see Gaz. of India, 30-8-1969, Pt. II-S. 2, Ext. p. 871.

† Received the assent of the President on 26-12-1969. Act published in Gaz. of India, 26-12-1969, Pt. II-S. 1, Ext. p. 397.

tion (2) shall be construed as preventing any person from claiming refund of any rents or royalties paid by him in excess of the amount due from him under any such laws.

THE SCHEDULE

(See Section 2)

1. Section 10 of the Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950), as amended by the Bihar Land Reforms (Amendment) Act, 1964 (Bihar Act IV of 1965) and by the Bihar Land Reforms (Amendment) Act, 1965 (Bihar Act VI of 1965).
2. Section 10-A of the Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950), as inserted by the Bihar Land Reforms (Amendment) Act, 1964 (Bihar Act IV of 1965).
3. Section 31 of the Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950), as amended by the Bihar Land Reforms (Amendment) Act, 1964 (Bihar Act IV of 1965) and by the Bihar Land Reforms (Amendment) Act, 1965 (Bihar Act VI of 1965).
4. Sub-rule (2) of Rule 20 of the Bihar Minor Mineral Concession Rules, 1964, as inserted by the Bihar Minor Mineral Concession (First Amendment) Rules, 1964, published under the Bihar State Government notification No. A/MM-1099/64 (Pt.) 7700/M, dated the 19th December, 1964, in the Gazette of Bihar (Pt. II) dated the 30th December, 1964.

THE KHUDA BAKHSH ORIENTAL PUBLIC LIBRARY ACT, 1969

(ACT 43 OF 1969)

CONTENTS

CHAPTER I

Preliminary

1. Short title and commencement.
2. Declaration of Khuda Bakhsh Oriental Public Library as an institution of national importance.
3. Definition.

CHAPTER II

The Khuda Bakhsh Oriental Public Library Board.

4. Establishment and incorporation of Board.
5. Composition of Board.
6. Term of office and fresh nomination in certain cases.
7. Vacancies, etc. not to invalidate acts.
8. Duty of Government nominating persons etc.
9. Meetings of Board.
10. Temporary association of persons with Board for particular purposes
11. Authentication of orders and other instruments of Board.
12. Staff of Board
13. Transfer of service of existing employees to Board.
14. Location of Library.

CHAPTER III

Property, Liabilities and Functions of the Board

15. Property and liabilities of Board.
16. Duties of Board.
17. Powers of Boards.

CHAPTER IV

Finance, Accounts, Audit and Reports

18. Grants by Central Government to Board.
19. Fund of Board.
20. Budget.
21. Accounts and audit.
22. Returns and reports.

CHAPTER V

Miscellaneous

23. Power of Central Government to issue directions to Board.
24. Delegation of powers and duties.
25. Officers and employees of Board to be public servants.
26. Protection of action taken under the Act.
27. Power of Central Government to make rules.
28. Power of Board to make regulations.

THE KHUDA BAKHSH ORIENTAL PUBLIC LIBRARY ACT, 1969

(ACT 43 OF 1969)*

[26th December, 1969].

An Act to declare the Khuda Bakhsh Oriental Public Library at Patna to be an institution of national importance and to provide for its administration and certain other connected matters.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title and commencement.

(1) This Act may be called the Khuda Bakhsh Oriental Public Library Act, 1969.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Declaration of Khuda Bakhsh Oriental Public Library as an institution of national importance.

It is hereby declared that the Khuda Bakhsh Oriental Public Library at Patna in the State of Bihar is an institution of national importance.

3. Definitions.

In this Act, unless the context otherwise requires,—

(a) "Board" means the Board established under Section 4;

*Received the assent of the President on 26-12-1969. Act published in Gazette of India, 26-12-1969, Pt. II-S. 1, Ext. p. 398
For Statement of Objects and Reasons, see Gaz. of Ind., 21-2-1968, Pt. II-S. 2, Ext. p. 84.

(b) "Chairman" means the Chairman of the Board;

(c) "deed of trust" means the deed of trust No. 217 executed in the office of the Deputy Registrar of Patna by the late Maulvi Khuda Bakhsh Khan Bahadur of Muradpur on the 14th January, 1891;

(d) "Fund" means the fund referred to in Section 19;

(e) "library" means the Khuda Bakhsh Oriental Public Library declared to be an institution of national importance under this Act;

(f) "member" means a member of the Board and includes the Chairman;

(g) "Prescribed" means prescribed by rules made under this Act;

(h) "Stat Government" means the Government of Bihar.

CHAPTER II

The Khuda Bakhsh Oriental Public Library Board

4. Establishment and Incorporation of Board.

(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a Board to be known as the Khuda Bakhsh Oriental Public Library Board.

(2) The Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and contract, and may, by that name, sue and be sued.

5. Composition of Board.

(1) The Board shall consist of the following persons, namely:—

(a) the Governor of Bihar, ex-officio, Chairman;

(b) the Accountant General, Bihar ex-officio;

(c) a person to be nominated by the Central Government, who shall be a member of the family of the late Maulvi Khuda Bakhsh Khan Bahadur of Muradpur;

(d) eight persons, four each to be nominated by the Central Government and the State Government, who shall, as far as possible, be persons having knowledge of, and experience in, matters relating to the administration of libraries;

(e) the Director, Khuda Bakhsh Oriental Public Library, ex officio Member — Secretary.

(2) Every nomination under this section shall take effect as soon as it is notified by the Central Government in the Official Gazette.

6. Term of office and fresh nomination in certain cases.

(1) The terms of office of nominated members shall be such as may be prescribed.

(2) Any nominated member may resign his office by giving notice in writing to the Central Government and to the State Government, and on such resignation being notified by the Central Government in the Official Gazette, shall be deemed to have vacated his office.

(3) A casual vacancy created by the resignation of a nominated member under sub-section (2) or for any other reason may be filled by fresh nomination by the Central Government or the State Government, as the case may be, and a member so nominated shall hold office for the remaining period for which the member in whose place he is nominated would have held office.

(4) An outgoing member shall be eligible for renomination.

(5) If any nominated member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Central Government or the State Government, as the case may be, may nominate another person to act in his place during his absence.

7. Vacancies etc., not to invalidate acts.
No act of the Board shall be invalid merely by reason of —

(a) any vacancy in, or defect in the constitution of, the Board, or

(b) any defect in the nomination of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

8. Duty of Government nominating persons, etc.

(1) Before nominating a person to be a member of the Board, the Central Government or the State Government, as the case may be, shall satisfy itself that the person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member, and the Central Government or the State Government, as the case may be, shall also satisfy itself from time to time with respect to every member nominated by it that he has no such interest; and any person who is or whom the Central Government or the State Government, as the case may be, proposes to nominate and who has consented to be, a member shall, whenever requested by the Central Government or the State Government so to do, furnish to it such information as that Government considers necessary for the performance by it of its duties under this sub-section.

(2) A nominated member who is in any way, directly or indirectly interested in a contract made or proposed to be made, by the Board shall, as soon as possible, after relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the Board and the member shall not take any part after the disclosure in any deliberation or decision of the Board with respect to that contract.

9. Meetings of Board.

(1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made under this Act.

(2) The Chairman or, in his absence, any member chosen by the members present from among themselves, shall preside at a meeting of the Board

(3) If any nominated member, being an officer of Government, is unable to attend any meeting of the Board, he may with the previous approval of the Chairman, authorise any person in writing to do so

(4) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the member presiding, shall have a second or casting vote.

10. Temporary association of persons with Board for particular purposes.

(1) The Board may associate with itself in such manner and for such purposes as may be provided by regulations made under this Act, any person whose assistance or advice it may desire in performing any of its functions under this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have the right to take part in the discussions of the Board relating to that purpose, but shall not, by virtue of this section be entitled to vote

11. Authentication of orders and other instruments of Board.

All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of an officer of the Board authorised in like manner in this behalf

12. Staff of Board.

(1) Subject to the provisions of sub-section (2), the Board may, for the purpose of enabling it efficiently to perform its functions under this Act, appoint such number of officers and other employees as it may think fit

(2) The recruitment and conditions of service of such officers and employees shall be such as may be provided by regulations made under this Act.

13. Transfer of service of existing employees to Board.

Subject to the provisions of this Act, every person employed in the library immediately before the date of establishment of the Board shall, on and from such date, become an employee of the Board with such designation as the Board may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held the same on such date, if the Board had not been established and shall continue to do so unless and until his employment in the Board is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Board;

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to

his disadvantage without the previous approval of the Central Government

14. Location of library.

The library shall be located at Patna

CHAPTER III

Property, Liabilities and Functions of The Board

15. Property and liabilities of Board.

(1) On the establishment of the Board—

(i) all properties, funds and dues which are vested in, or realisable by, the trustees of the library constituted by the deed of trust, in their capacity as such, shall vest in and be realisable by, the Board; and

(ii) all liabilities in relation to the library which are enforceable against the said trustees, shall be enforceable only against the Board.

(2) All properties, which may, after the establishment of the Board, be given, bequeathed or otherwise transferred to the library or acquired by the Board, shall vest in the Board

16. Duties of Board.

(1) Subject to the provisions of the deed of trust, it shall be the general duty of the Board to manage the library and to plan, promote, organise and implement programmes for the development of the library on modern scientific lines (including the microfilming of rare manuscripts) and to perform such other functions as the Central Government may from time to time, assign to the Board.

(2) In particular and without prejudice to the generality of the foregoing provision, the Board may take such steps as it thinks fit—

(a) for providing for instruction and research in matters relating to libraries and for the advancement of learning and dissemination of knowledge in such matters; and

(b) to do all such other things as may be necessary for the discharge of its functions under this Act.

17. Powers of Board.

(1) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its duties under this Act.

(2) Subject to such regulations as may be made by the Board in this behalf, the Board may from time to time purchase or otherwise acquire such manuscripts, books, articles or things as may, in the opinion of the Board, be worthy of preservation in the library

CHAPTER IV

Finance, Accounts, Audit and Reports

18. Grants by Central Government to Board.

For the purpose of enabling the Board to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board in each financial year such sums of money as that Government considers necessary by way of grant, loan or otherwise

19. Fund of Board.

(1) The Board shall maintain a Fund to which shall be credited —

(a) all moneys paid by the Central Government;

(b) such sums of money as the State Government may pay annually having regard to its resolution No. V/L 4055/60E 120, dated the 26th September, 1962;

(c) all fees and other charges levied under this Act;

(d) all moneys received by the Board by way of grant, gift, donation, benefaction, bequest, subscription, contribution or transfer;

(e) all other moneys received by the Board in any other manner or from any other source.

(2) The Board may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund.

(3) A sum of money not exceeding such amount as may be provided by regulations made under this Act may be kept in current account with any scheduled bank as defined in S 2 of the Reserve Bank of India Act, 1934, or any other bank approved by the Central Government in this behalf, but any moneys in excess of that sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such manner as may be approved by the Central Government

20. Budget.

(1) The Board shall, by such date in each year as may be specified by the Central Government, submit to it for approval a budget for the next financial year in the form specified by it, showing the estimated receipts and expenditure, and the sums which would be required from the Central Government during that financial year.

(2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

(3) Subject to the provisions of sub-section (4), no sum shall be expended by or on behalf of the Board, unless the expenditure is covered by provision in the budget approved by the Central Government.

(4) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may sanction any reappropriation from one head of expenditure to another or from a provision made for one purpose to that for another purpose.

21. Accounts and audit.

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as may be specified, and in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents, and papers and to inspect the office of the Board, and the library.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

22. Returns and reports.

(1) The Board shall furnish to the Central Government at such time and in such form and in such manner as the Central Government may direct such returns, statements and particulars as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1) the Board shall, as soon as possible after the commencement of each financial year, submit to the Central Government within such time as may be specified by the Central Government a report giving true and full account of the activities of the Board during the previous financial year and an account of activities likely to be undertaken during the current financial year.

CHAPTER V**Miscellaneous****23. Power of Central Government to issue directions to Board.**

(1) In the discharge of its functions under this Act, the Board shall be bound by such directions on questions of policy as the Central Government may give to it from time to time:

Provided that the Board shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

24. Delegation of powers and duties.

The Board may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any member, officer or employee of the Board specified in this behalf in the order.

25. Officers and employees of Board to be public servants.

All officers and employees of the Board shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

26. Protection of action taken under the Act.

No suit, prosecution or other legal proceeding shall lie against the Board or any member, officer or employee of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

27. Power of Central Government to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act:

Provided that when the Board has been established, no such rules shall be made without consulting the Board.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the term of office of, and the manner of filling casual vacancies among, the members nominated under clauses (c) and (d) of sub-section (1) of Section 5;

(b) the travelling and other allowances payable to a member other than the Chairman and to a person associated with the Board under Section 10;

(c) the disqualifications for membership of the Board and the procedure to be followed in removing a member who is or becomes subject to any disqualification;

(d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of the Board;

(e) any other matter which has to be or may be prescribed

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

28. Power of Board to make regulations.

(1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the conditions and restrictions subject to which manuscripts and books in the library may be used;

(b) the manner in which, and the purposes for which, persons may be associated with the Board;

(c) the time and place of meetings of the Board, the procedure to be followed in regard to the transaction of business at such meetings and the quorum necessary for the transaction of business at a meeting;

(d) the maintenance of minutes of meetings of the Board and the transmission of copies thereof to the Central Government;

(e) the recruitment and conditions of service of officers and other employees of the Board;

(f) the persons by whom and the manner in which, payments, deposits and investments may be made on behalf of the Board;

(g) the maximum amount that may be kept in the current account;

(h) the maintenance of registers and accounts;

(i) the compilation of catalogues and inventories of the manuscripts, books and other articles and things in the library;

(j) the steps to be taken for the preservation of the manuscripts, books and other articles and things in the library;

(k) the general management of the library;

(l) the fees and other charges to be levied for the use of manuscripts and books in the library;

(m) any other matter in respect of which provision is, in the opinion of the Board, necessary for the performance of its functions under this Act.

(3) The Central Government may, after consultation with the Board, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved, and thereupon the regulation shall have effect accordingly, but without prejudice to the exercise of the powers of the Board under sub-sections (1) and (2).

THE OATHS ACT, 1969

(ACT 44 OF 1969) [*]

[26th December, 1969].

An Act to consolidate and amend the law relating to judicial oaths and for certain other purposes.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title and extent.

(1) This Act may be called the Oaths Act, 1969.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

* Received the assent of the President on 26-12-1969. Act published in Gaz. of Ind., 26-12-1969, Pt. II-S. 1, Ext. p. 407.

For Statement of Objects and Reasons, see Gaz. of Ind. 27-11-1967, Pt. II-S. 2, Ext. p. 1161.

2. Saving of certain oaths and affirmations.

Nothing in this Act shall apply to proceedings before courts martial or to oaths, affirmations or declarations prescribed by the Central Government with respect to members of the Armed Forces of the Union.

3. Power to administer oaths.

(1) The following courts and persons shall have power to administer, by themselves or, subject to the provisions of sub-sec. (2) of Sec. 6, by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties imposed or in exercise of the powers conferred upon them by law, namely:—

(a) all courts and persons having by law or consent of parties authority to receive evidence;

(b) the commanding officer of any military, naval, or air force station or ship occupied by the Armed Forces of the Union, provided that the oath or affirmation is administered within the limits of the station.

(2) Without prejudice to the powers conferred by sub-section (1) or by or under any other law for the time being in force, any court, Judge, Magistrate or person may administer oaths and affirmations for the purpose of affidavits, if empowered in this behalf —

(a) by the High Court, in respect of affidavits for the purpose of judicial proceedings; or

(b) by the State Government, in respect of other affidavits.

4. Oaths or affirmations to be made by witnesses, interpreters and jurors.

(1) Oaths or affirmations shall be made by the following persons, namely:—

(a) all witnesses, that is to say, all persons who may lawfully be examined, or give, or be required to give, evidence by or before any court or person having by law or consent of parties authority to examine such persons or to receive evidence;

(b) interpreters of questions put to, and evidence given by, witnesses; and

(c) jurors:

Provided that where the witness is a child under twelve years of age, and the court or person having authority to examine such witness is of opinion that, though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation, the foregoing provisions of this section and the provisions of Section 5 shall not apply to such witness; but in any such case the absence of an oath or affirmation shall not render inadmissible any evidence given by such witness nor affect the obligation of the witness to state the truth.

(2) Nothing in this section shall render it lawful to administer, in a criminal proceeding, an oath or affirmation to the accused person, unless he is examined as a witness for the defence, or necessary

to administer to the official interpreter of any court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

5. Affirmation by persons desiring to affirm.

A witness, interpreter or juror may, instead of making an oath, make an affirmation.

6. Forms of oaths and affirmations.

(1) All oaths and affirmations made under Section 4 shall be administered according to such one of the forms given in the Schedule as may be appropriate to the circumstances of the case:

Provided that if a witness in any judicial proceeding desires to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the class to which he belongs, and not repugnant to justice or decency and not purporting to affect any third person, the court may, if it thinks fit, notwithstanding anything hereinbefore contained, allow him to give evidence on such oath or affirmation.

(2) All such oaths and affirmations shall, in the case of all courts other than the Supreme Court and the High Courts, be administered by the presiding officer of the court himself, or, in the case of a Bench of Judges or Magistrates, by any one of the Judges or Magistrates, as the case may be.

7. Proceedings and evidence not invalidated by omission of oath or irregularity.

No omission to take any oath or make any affirmation, no substitution of any one for any other of them, and no irregularity whatever in the administration of any oath or affirmation or in the form in which it is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place, or shall affect the obligation of a witness to state the truth.

8. Persons giving evidence bound to state the truth.

Every person giving evidence on any subject before any court or person hereby authorised to administer oaths and affirmations shall be bound to state the truth on such subject.

9. Repeal and saving.

(1) The Indian Oaths Act, 1873, is hereby repealed.

(2) Where, in any proceeding pending at the commencement of this Act, the parties have agreed to be bound by any such oath or affirmation as is specified in Section 8 of the said Act, then, notwithstanding the repeal of the said Act, the provisions of sections 9 to 12 of the said Act shall continue to apply in relation to such agreement as if this Act had not been passed.

THE SCHEDULE

(See Section 6)

Forms Of Oaths Or Affirmations

Form No. 1 (Witnesses).—

I do _____ that
 swear in the name of God
 solemnly affirm
 what I shall state shall be the truth,
 the whole truth and nothing but the
 truth.

Form No 2 (Jurors).—

I do _____ that
 swear in the name of God
 solemnly affirm
 I will well and truly try and true deli-
 verance make between the State and the
 prisoner (s) at the bar, whom I shall
 have in charge, and a true verdict give
 according to the evidence

Form No. 3 (Interpreters).—

I do _____ that
 swear in the name of God
 solemnly affirm
 I will well and truly interpret and ex-
 plain all questions put to and evidence
 given by witnesses and translate cor-
 rectly and accurately all documents
 given to me for translation.

Form No 4 (Affidavits).—

I do _____ that
 swear in the name of God
 solemnly affirm
 this is my name and signature (or mark)
 and that the contents of this my affidavit
 are true.

THE INDIAN REGISTRATION
(AMENDMENT) ACT, 1969

(ACT 45 OF 1969) [*]

[26th December, 1969]

An Act further to amend the Indian Regis-
tration Act, 1908.

Be it enacted by Parliament in the
 Twentieth Year of the Republic of India
 as follows:—

1. Short title.

This Act may be called the Indian
 Registration (Amendment) Act, 1969.

2. Amendment of Sections 1 and 30.

In the Indian Registration Act, 1908,—

(a) in sub-section (1) of Section 1,
 the word "Indian" shall be omitted,

(b) in sub-section (2) of Section 30,
 for the words "The Registrar of a district
 including a presidency-town", the words
 "The Registrar of a district in which a
 presidency-town is included and the
 Registrar of the Delhi district" shall be
 substituted.

* Received the assent of the President
 on 26-12-1969. Act published in
 Gaz of Ind., 26-12-1969, Pt II-
 S. 1, Ext. p. 410.

For Statement of Objects and Reasons,
 see Gaz. of Ind. 5-8-1968, Pt. II-
 S. 2, Ext. p. 909

THE PUNJAB LEGISLATIVE COUNCIL
(ABOLITION) ACT, 1969
(ACT 46 OF 1969) [†]

[27th December, 1969]

An Act to provide for the abolition of the
 Legislative Council of the State of Pun-
 jab and for matters supplemental, in-
 cidental and consequential thereto.

Be it enacted by Parliament in the
 Twentieth Year of the Republic of India
 as follows:—

1. Short title and commencement.

(1) This Act may be called the Punjab
 Legislative Council (Abolition) Act, 1969.

(2) It shall come into force on such
 date as the Central Government may, by
 notification in the Official Gazette, ap-
 point

2. Definitions.

In this Act, unless the context other-
 wise requires,—

(a) "appropriate Government" means,
 as respects a law, relating to a matter
 enumerated in List I in the Seventh Sched-
 ule to the Constitution, the Central Gov-
 ernment and as respects any other law,
 the State Government.

(b) "article" means an article of the
 Constitution,

(c) "Council" means the Legislative
 Council of the State of Punjab,

(d) "law" includes any enactment, Ordi-
 nance, regulation, order, bye-law, rule,
 scheme, notification or other instrument
 having the force of law in the whole or
 any part of the State of Punjab,

(e) "Legislative Assembly" means the
 Legislative Assembly of the State of Pun-
 jab

3. Abolition of the Council.

(1) The Legislative Council of the State
 of Punjab is hereby abolished.

(2) On the abolition of the Council,
 every member thereof shall cease to be
 such member.

4. Amendment of Article 168.

In sub-clause (a) of clause (1) of
 Article 168, the word, "Punjab", shall be
 omitted.

5. Amendment of Act 43 of 1950.

In the Representation of the People Act,
 1950,—

(a) in the Third Schedule, entry No. 7
 relating to Punjab shall be omitted;

(b) in the Fourth Schedule, the heading
 "Punjab" and the entries thereunder
 shall be omitted;

6. Repeal of Delimitation of Council Con-
stituencies (Punjab) Order, 1951.

The Delimitation of Council Constitu-
 encies (Punjab) Order, 1951, is hereby re-
 pealed

7. Provision as to pending Bills.

(1) A Bill pending in the Council im-
 mediately before the commencement of
 this Act which has not been passed by

† Received the assent of the President
 on 27-12-1969. Act published in
 Gaz. of Ind. 27-12-1969, Pt. II-S. 1,
 Ext. p. 413.

For Statement of Objects and Reasons,
 see Gaz. of Ind., 25-7-1969, Pt. II-
 S. 2, Ext. p. 615.

the Legislative Assembly shall lapse on the abolition of the Council.

(2) A Bill pending in the Council immediately before the commencement of this Act which has been passed by the Legislative Assembly shall not lapse on the abolition of the Council, but on such abolition shall be deemed to have been passed before such commencement by both Houses of the Legislature of the State of Punjab in the form in which it was passed by the Legislative Assembly.

(3) If a Bill which having been passed by the Legislative Assembly is, before the commencement of this Act, either rejected by the Council or passed by the Council with amendments, the Legislative Assembly may, after such commencement, pass the Bill again with or without such amendments, if any, as have been made by the Council and the Bill so passed shall be deemed to be a Bill introduced in and passed by the Legislative Assembly after the commencement of this Act.

8. Power to adapt laws.

The appropriate Government may, before the expiration of one year from the commencement of this Act, by order, make such adaptations and modifications of any law made before such commencement, whether by way of repeal or amendment as may be necessary or expedient in consequence of the abolition of the Council under Section 3, and thereupon every such law shall have effect subject to the adaptations and modifications so made.

9. Power to construe laws.

Notwithstanding that no provision or insufficient provision has been made under Section 8 for the adaptation or modification of the law made before the commencement of this Act, any court, tribunal or authority required or empowered to enforce such law may construe the law in such manner, without affecting the substance, as may be necessary or proper on account of the abolition of the Council, in regard to the matter before the court, tribunal or authority.

THE SALARIES AND ALLOWANCES OF MINISTERS (AMENDMENT) ACT, 1969

(ACT 47 OF 1969) [*]

[27th December, 1969]

An Act further to amend the Salaries and Allowances of Ministers Act, 1952.

It enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the Salaries and Allowances of Ministers (Amendment) Act, 1969.

* Received the assent of the President on 27-12-1969. Act published in Gaz. of India, 27-12-1969, Pt. II S. 1 Ext. p. 415.

For Statement of Objects and Reasons, see Gaz. of Ind. 26-6-1967, Pt. II S. 2, Ext. p. 521.

(2) It shall be deemed to have come into force on the 1st day of November, 1966.

2. Amendment of Section 1.

Section 1 of the Salaries and Allowances of Ministers Act, 1952 shall be re-numbered as sub-section (1) thereof and,—

(i) in sub-section (1) as so re-numbered for the words "fifteen days", the words "one month" shall be substituted; and

(ii) after sub-section (1) as so re-numbered and before the Explanation, the following sub-section shall be inserted, namely:—

"(2) In the event of the death of the Minister, his family shall be entitled to the use of the furnished residence occupied by the Minister—

(a) for a period of one month immediately after his death, without payment of rent and no charge shall fall on the family of the Minister in respect of the maintenance of such residence, and

(b) for a further period of one month, on payment of rent at such rates as may be prescribed by rules made in this behalf by the Central Government and also charges in respect of electricity and water consumed in that residence during such further period."

THE APPROPRIATION (RAILWAYS) NO. 5 ACT, 1969

(ACT 48 OF 1969) [†]

[27th December, 1969]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1969-70 for the purposes of Railways.

(The text of the Act is omitted.)

THE APPROPRIATION (NO. 5) ACT, 1969

(ACT 49 OF 1969) [‡]

[27th December, 1969]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1968, in excess of the amounts granted for those services and for that year.

(The text of the Act is omitted.)

† Received the assent of the President on 27-12-1969. Act published in Gaz. of Ind., 27-12-1969, Pt. II S. 1, Ext. p. 417.

‡ Received the assent of the President on 27-12-1969. Act published in Gaz. of Ind., 27-12-1969.

**THE APPROPRIATION (NO. 6) ACT,
1969**

(ACT 50 OF 1969) [*]

[27th December, 1969]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1969-70.

(The text of the Act is omitted.)

**THE MANIPUR APPROPRIATION ACT,
1969**

(ACT 51 OF 1969) [**]

[27th December, 1969]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the Union territory of Manipur for the services of the financial year 1969-70.

(The text of the Act is omitted.)

**THE BIHAR APPROPRIATION
ACT, 1969**

(Act 52 of 1969)†

(27th December, 1969).

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Bihar for the services of the financial year 1969-70. (The text of the Act is omitted.)

**THE INDIAN TARIFF (AMENDMENT)
ACT, 1969**

(Act 53 of 1969)‡

[27th December, 1969]

An Act further to amend the Indian Tariff Act, 1934.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:

1. Short title and commencement.

(1) This Act may be called the Indian Tariff (Amendment) Act, 1969.

(2) It shall come into force at once.

2. Amendment of First Schedule.

In the First Schedule to the Indian Tariff Act, 1934,—

(a) for item No. 46, the following Item shall be substituted, namely:—

“46 Silk-worm cocoons suitable for reeling; raw silk (not thrown)—

(a) Raw silk	Protective	30 per cent ad valorem.	December 31st, 1974.
(b) Silk-worm cocoons suitable for reeling.	Protective	50 per cent ad valorem, plus Rs. 8.80 per kilogram.	December 31st, 1974.”;

(b) for Item No. 46(1), the following Item shall be substituted, namely —

“46 (1) Silk waste (including cocoons unsuitable for reeling, silk noils and pulled or garnetted rags).	Protective	50 per cent ad valorem, plus Rs. 8.80 per kilogram	December 31st, 1974.”;
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(c) for Item No. 47, the following Item shall be substituted, namely:—

“47 Silk yarn including silk sewing thread.	Protective	50 per cent ad valorem, plus Rs. 8.80 per kilogram.	December 31st, 1974.”;
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(d) Item No. 47 (1) shall be omitted;

* Received the assent of the President on 27-12-1969. Act published in Gaz. of Ind., 27-12-1969, Pt. II-S. 1, Ext. p. 420.

** Received the assent of the President on 27-12-1969. Act published in Gaz. of Ind., 27-12-1969, Pt. II-S. 1, Ext. p. 421.

† Received the assent of the President on 27-12-1969. Act published in Gaz. of Ind. 27-12-1969, Pt. II-S. 1. Ext. p. 422

‡ Received the assent of the President on 27-12-1969. Act published in Gaz. of Ind. 27-12-1969 Pt. II-S. 1 Ext. p. 425.
For Statement of Objects and Reasons see Gaz. of Ind. 17-12-1969 Ext. p. 1121.

(c) for Item No. 48. the following Item shall be substituted, namely:—

- “48 Fabrics, not otherwise Protective 100 per cent ad December
specified, containing valorem plus Rs. 31st, 1974.”
more than 90 per cent 18.70 per kilo-
of silk, including such gram.
fabrics embroidered
with yarn or thread of
man-made fibres.

THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969 (ACT 54 OF 1969)

CONTENTS

CHAPTER I

Preliminary

1. Short title, extent and commencement.
2. Definitions.
3. Act not to apply in certain cases.
4. Application of other laws not barred.

CHAPTER II

Monopolies and Restrictive Trade Practices Commission

5. Establishment and Constitution of the Commission.
6. Terms of office, conditions of service, etc., of members.
7. Removal of members from office in certain circumstances.
8. Appointment of Director and staff of the Commission.
9. Salaries, etc., to be defrayed out of the Consolidated Fund of India.

Jurisdiction, Powers And Procedure Of The Commission

10. Inquiry into monopolistic or restrictive trade practices by Commission.
11. Investigation by Director before issue of process in certain cases.
12. Powers of the Commission.
13. Orders of Commission may be subject to conditions, etc.
14. Orders where party concerned does not carry on business in India.
15. Restriction of application of orders in certain cases.
16. Sittings of the Commission.
17. Hearing to be in public except in special circumstances.
18. Procedure of the Commission.
19. Orders of the Commission to be noted in the register.

CHAPTER III

Concentration of Economic Power

PART A

20. Undertakings to which this Part applies.
21. Expansion of undertakings.
22. Establishment of new undertakings.
23. Merger, amalgamation and take over.
24. Merger, amalgamation or take over in contravention of Section 23.
25. Directors of undertakings not to be appointed directors of other undertakings.
26. Registration of undertakings to which Part A applies.

PART B

27. Division of undertakings.

PART C

28. Matters to be considered by the Central Government before according approval.
29. Opportunity of being heard.
30. Time within which action should be taken.

CHAPTER IV

Monopolistic Trade Practices

31. Investigation by Commission of monopolistic trade practices.
32. Monopolistic trade practice when to be deemed to be prejudicial to public interest.

CHAPTER V

Registration of Agreement Relating to Restrictive Trade Practices

33. Registrable agreements relating to restrictive trade practices.
34. Registrar of restrictive trade agreements.
35. Registration of agreements.
36. Keeping the register.

CHAPTER VI

Control of Certain Restrictive Trade Practices

37. Investigation into restrictive trade practices by Commission.
38. Presumption as to the public interest.
39. Special conditions for avoidance of conditions for maintaining re-sale prices.
40. Prohibition of other measures for maintaining re-sale prices.
41. Power of commission to exempt particular classes of goods from Sections 39 and 40.

CHAPTER VII

Power to Obtain Information and Ap- point Inspectors

42. Power of Registrar to obtain information.
43. Power to call for information.
44. Power to appoint inspectors.

CHAPTER VIII

Offences and Penalties

45. Penalty for contravention of Section 21.
46. Penalty for contravention of Section 22, or Section 23 or Section 24 or Section 27.
47. Penalty for contravention of Section 25.
48. Penalty for failure to register agreements.

- 49 Penalty for offences in relation to furnishing of information
50. Penalty for offences in relation to orders under the Act.
51. Penalty for offences in relation to resale price maintenance.
52. Penalty for wrongful disclosure of information
- 53 Offences by companies.

CHAPTER IX Miscellaneous

54. Power of Central Government to impose conditions, limitations and restrictions on approvals, etc., given under the Act.
55. Appeals
56. Jurisdiction of courts to try offences.
57. Cognizance of offences.
- 58 Magistrate's power to impose enhanced penalties.
59. Protection regarding statements made to the Commission.
60. Restriction on disclosure of information
61. Power of the Central Government to require the Commission to submit a report
- 62 Reports of the Commission to be placed before Parliament
63. Members, etc., to be public servants
64. Protection of action taken in good faith.
65. Inspection of, and extracts from, the register
- 66 Power to make regulations
67. Power to make rules

THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969

(ACT 54 OF 1969)*

[27th December, 1969]

An Act to provide that the operation of the economic system does not result in the concentration of economic power to the common detriment, for the control of monopolies, for the prohibition of monopolistic and restrictive trade practices and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

CHAPTER I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Monopolies and Restrictive Trade Practices Act, 1969.

(2) It extends to the whole of India except the State of Jammu and Kashmir

* Received the assent of the President on 27-12-1969. Act published in Gaz. of Ind., 27-12-1969 Pt. II-S. 1, Ext. p. 427.

For Statement of Objects and Reasons see Gaz. of Ind. 18-8-1967 Pt. II-S. 2, Ext. p. 980. And for joint Committee Report, see Gaz. of Ind., 26-2-1969, Pt. II-S. 2, Ext. p. 110.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

2. Definitions.

In this Act, unless the context otherwise requires,—

(a) "agreement" includes any arrangement or understanding, whether or not it is intended that such agreement shall be enforceable (apart from any provision of this Act) by legal proceedings,

(b) "Commission" means the Monopolies and Restrictive Trade Practices Commission established under Section 5;

(c) "Director" means the director of Investigation appointed under Section 8;

(d) "dominant undertaking" means an undertaking which either by itself or along with inter-connected undertakings

(i) produces, supplies, distributes or otherwise controls not less than one-third of the total goods of any description that are produced, supplied or distributed in India or any substantial part thereof, or

(ii) provides or otherwise controls not less than one-third of any services that are rendered in India or any substantial part thereof

Provided that for the purposes of this clause, the goods produced by an undertaking which does not employ—

(a) more than fifty workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on or

(b) more than one hundred workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on, shall not be taken into account.

Explanation I — Where not less than one-third of the production, supply distribution or control of any goods or the provision or control of any service is shared by inter-connected undertakings, each such undertaking shall be deemed, for the purposes of this Act, to be a dominant undertaking.

Explanation II — Where any goods of any description are the subject of different forms of production, supply, distribution or control, every reference in this Act to such goods shall be construed as reference to any of those forms of production, supply, distribution or control, whether taken separately or together or in such groups as may be prescribed.

Explanation III — Any undertaking which, either by itself or along with inter-connected undertakings, produces, supplies, distributes or controls one-third of any goods or provides or controls one-third of any services according to any of the following criteria, namely, value, cost, price, quantity or capacity, of the goods or services or the number of workers employed for the production, supply, distribution or control of such goods or for the rendering of such services, shall be deemed to be a dominant undertaking.

Explanation IV — In determining the question as to whether an undertaking is

or is not a dominant undertaking, regard shall be had to —

(i) the lowest production made, or services rendered, by the undertaking concerned during the relevant year, and

(ii) the figures published by the Central Government with regard to the total production made or services rendered in India or any substantial part thereof during the relevant year.

Explanation V.— For the purposes of Explanation IV, production includes supply, distribution or control of goods;

Explanation VI — For the purposes of this clause, “relevant year” means any one year out of the three calendar years immediately preceding the preceding calendar year in which the question whether an undertaking is or is not a dominant undertaking is determined.

(c) “goods” includes goods produced in India, and, in relation to any goods supplied, distributed or controlled in India, also includes goods imported into India.

(f) “India” means, for the purposes of this Act, the territories to which this Act extends;

(g) “inter-connected undertakings” means two or more undertakings which are inter-connected with each other in any of the following manner, namely:—

(i) if one owns or controls the other,
(ii) where the undertakings are owned by firms, if such firms have one or more common partners,

(iii) where the undertakings are owned by bodies corporate,—

(a) If one manages the other, or
(b) if one is a subsidiary of the other.

or
(c) if they are under the same management within the meaning of Section 370 of the Companies Act, 1956, or

(d) if one exercises control over the other in any other manner.

(iv) where one undertaking is owned by a body corporate and the other is owned by a firm, if one or more partners of the firm,—

(a) hold, directly or indirectly, not less than fifty per cent of the shares, whether preference or equity, of the body corporate, or

(b) exercise control, directly or indirectly, whether as director or otherwise, over the body corporate,

(v) if one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners, if such bodies corporate are under the same management within the meaning of the said Section 370.

(vi) if the undertakings are owned or controlled by the same person or group of persons,

(vii) if one is connected with the other either directly or through any number of undertakings which are inter connected undertakings within the meaning of one or more of the foregoing sub-clauses.

Illustration

Undertaking B is inter-connected with undertaking A and undertaking C is inter-connected with undertaking B. Under-

taking C is inter-connected with undertaking A; if undertaking D is inter-connected with undertaking C, undertaking D will be inter-connected with undertaking B and consequently with undertaking A; and so on.

Explanation. — For the purpose of clause (g), two or more undertakings shall be deemed to be inter-connected, —

(a) if one or more undertakings which are inter-connected undertakings [as defined in clause (g)] jointly or severally, own manage or control the other,

(b) if one or more individuals together with their relatives, or firms in which such individuals or their relatives are partners, jointly or severally, own, manage or control the other.

(c) if inter-connected undertakings referred to in sub-clause (a) and persons, relatives or firms referred to in sub-clause (b), jointly or severally, own, manage or control the other;

(h) “member” means a member of the Commission;

(i) “monopolistic trade practice” means a trade practice which has, or is likely to have, the effect of, —

(i) maintaining prices at an unreasonable level by limiting, reducing or otherwise controlling the production, supply or distribution of goods of any description or the supply of any services or in any other manner,

(ii) unreasonably preventing or lessening competition in the production, supply or distribution of any goods or in the supply of any services,

(iii) limiting technical development or capital investment to the common detriment or allowing the quality of any goods produced, supplied or distributed or any service rendered, in India to deteriorate

(j) “monopolistic undertaking” means —

(i) a dominant undertaking which, or
(ii) an undertaking which, together with not more than two other independent undertakings,—

(a) produces, supplies, distributes or otherwise controls not less than one-half of the total goods of any description that are produced, supplied or distributed in India or any substantial part thereof, or

(b) provides or otherwise controls not less than one-half of the services that are rendered in India or any substantial part thereof;

Provided that for the purposes of this clause, the goods produced by an undertaking which does not employ—

(A) more than fifty workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or

(B) more than one hundred workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on, shall not be taken into account

Explanation I.—Any undertaking which either by itself or along with not more than two other independent undertakings, produces, supplies, distributes or controls one-half of any goods or provides or con-

trols one-half of any services according to any one of the following criteria, namely, value, cost, price, quantity or capacity, of the goods or services or the number of workers employed for the production, supply, distribution or control of such goods or for the rendering of such services, shall be deemed to be a monopolistic undertaking.

Explanation II. — In determining the question as to whether an undertaking is or is not a monopolistic undertaking, regard shall be had to —

(i) the lowest production made, or services rendered by the undertaking concerned during the relevant year, and

(ii) the figures published by the Central Government with regard to the total production made or services rendered in India or any substantial part thereof during the relevant year.

Explanation III. — For the purposes of Explanation II, production includes supply, distribution or control of goods.

Explanation IV. — For the purposes of this clause, "relevant year" means any one year out of the three calendar years immediately preceding the preceding calendar year in which the question whether an undertaking is or is not a monopolistic undertaking is determined.

(k) "prescribed" means prescribed by rules made under this Act;

(l) "price", in relation to the sale of any goods or to the performance of any services, includes every valuable consideration, whether direct or indirect, and includes any consideration which in effect relates to the sale of any goods or to the performance of any services although ostensibly relating to any other matter or thing;

(m) "register" means the register kept by the Registrar under Section 36;

(n) "Registrar" means the Registrar of Restrictive Trade Agreements appointed under Section 34, and includes every Additional, Joint, Deputy or Assistant Registrar appointed under that section;

(o) "restrictive trade practice" means a trade practice which has, or may have the effect of preventing, distorting or restricting, competition in any manner and in particular,—

(i) which tends to obstruct the flow of capital or resources into the stream of production, or

(ii) which tends to bring about manipulation of prices, or conditions of delivery or to affect the flow of supplies in the market relating to goods or services in such manner as to impose on the consumers unjustified costs or restrictions;

(p) "retailer", in relation to the sale of any goods, includes every person other than a wholesaler, who sells the goods to any other person, and in respect of the sale of goods by a wholesaler, to any person for any purpose other than re-sale, includes that wholesaler;

(q) "scheme of finance" means a scheme indicating the sources from which, and the terms and conditions on which, finances are proposed to be obtained by an undertaking;

(r) "service" means service of any description which is made available to

potential users and includes the provision of facilities in connection with banking, insurance, transport, supply of electrical or other energy, board or lodging or both, entertainment, amusement or the purveying of news or other information but does not include the rendering of any service free of charge or under a contract of personal service;

(s) "trade" means any trade, business, industry, profession or occupation relating to the production, supply, distribution or control of goods and includes the provision of any services;

(t) "trade association" means a body of persons (whether incorporated or not) which is formed for the purpose of furthering the trade interests of its members or of persons represented by its members;

(u) "trade practice" means any practice relating to the carrying on of any trade, and includes—

(i) anything done by any person which controls or affects the price charged by, or the method of trading of, any trader or any class of traders,

(ii) a single or isolated action of any person in relation to any trade;

(v) "undertaking" means an undertaking which is engaged in the production, supply, distribution or control of goods of any description or the provision of service of any kind.

(w) "value of assets", in relation to an undertaking, means the value of its assets as shown in its books of account after making provision for depreciation or for renewals, or diminution in value;

(x) "wholesaler", in relation to the sale of any goods, means a person who sells the goods to any person for the purpose of resale;

(y) words and expressions used but not defined in this Act and defined in the Companies Act, 1956, have the meanings respectively assigned to them in that Act.

3. Act not to apply in certain cases.

Unless the Central Government, by notification in the Official Gazette, otherwise directs, this Act shall not apply to —

(a) any undertaking owned or controlled by a Government company,

(b) any undertaking owned or controlled by the Government.

(c) any undertaking owned or controlled by a corporation (not being a company) established by or under any Central, Provincial or State Act,

(d) any trade union or other association of workmen or employees formed for their own reasonable protection as such workmen or employees,

(e) any undertaking engaged in an industry, the management of which has been taken over by any person or body of persons in pursuance of any authorisation made by the Central Government under any law for the time being in force.

4. Application of other laws not barred.

(1) Save as otherwise provided in sub-section (2) or elsewhere in this Act, the provisions of this Act shall be in addition to, not in derogation of, any other law for the time being in force.

(2) Notwithstanding anything contained in Section 3 or elsewhere in this Act, so much of the provisions of this Act, as relate to matters in respect of which specific provisions exist in the —

(i) Reserve Bank of India Act, 1934, or the Banking Regulation Act, 1949, or

(ii) State Bank of India Act, 1955, or the State Bank of India (Subsidiary Banks) Act, 1959, or,

(iii) Insurance Act, 1938, shall not apply to a banking company, the State Bank of India or a subsidiary bank, as defined in the State Bank of India (Subsidiary Banks) Act, 1959, or an insurer, as the case may be.

CHAPTER II

Monopolies and Restrictive Trade Practices Commission

5. Establishment and Constitution of the Commission.

(1) For the purposes of this Act, the Central Government shall establish, by notification in the Official Gazette, a commission to be known as the Monopolies and Restrictive Trade Practices Commission which shall consist of a Chairman and not less than two and not more than eight other members, to be appointed by the Central Government.

(2) The Chairman of the Commission shall be a person who is, or has been or is qualified to be, a Judge of the Supreme Court or of a High Court and the members thereof shall be persons of ability, integrity and standing who have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

(3) Before appointing any person as a member of the Commission, the Central Government shall satisfy itself that the person does not, and will not, have, any such financial or other interest as is likely to affect prejudicially his functions as such member.

6. Terms of office conditions of service, etc., of members.

(1) Every member shall hold office for such period, not exceeding five years, as may be specified by the Central Government in the notification made under sub-section (1) of Sec. 5, but shall be eligible for re-appointment.

Provided that no member shall hold office as such for a total period exceeding ten years, or after he has attained the age of sixty-five years, whichever is earlier.

(2) Notwithstanding anything contained in sub-section (1), a member may —

(a) by writing under his hand and addressed to the Central Government resign his office at any time;

(b) be removed from his office in accordance with the provisions of Section 7.

(3) A casual vacancy caused by the resignation or removal of the Chairman or any other member of the Commission under sub-section (2) or otherwise shall be filled by fresh appointment.

(4) No act or proceeding of the Commission shall be invalid by reason only of the existence of any vacancy among its

members or any defect in the constitution thereof.

(5) The Chairman of the Commission and other members shall receive such remuneration and other allowances and shall be governed by such conditions of service as may be prescribed:

Provided that the remuneration of the Chairman or any other member shall not be varied to his disadvantage after his appointment.

(6) In the case of a difference of opinion among the members of the Commission, the opinion of the majority shall prevail and the opinion or orders of the Commission shall be expressed in terms of the views of the majority.

(7) The Chairman of the Commission and every member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form, in such manner and before such authority as may be prescribed.

(8) Any member ceasing to hold office as such shall not hold any appointment in, or be connected with the management or administration of, any industry or undertaking to which this Act applies for a period of five years from the date on which he ceases to hold such office.

7. Removal of members from office in certain circumstances.

(1) The Central Government may remove from office any member, who—

(a) has been adjudged an insolvent, or
(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or

(c) has become physically or mentally incapable of acting as such member, or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member, or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), no member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court, on a reference being made to it in this behalf by the Central Government, has, on an inquiry held by it in accordance with such procedure as it may specify in this behalf, reported that the member ought, on such grounds, to be removed.

8. Appointment of Director and staff of the Commission.

The Central Government may, in consultation with the Commission, appoint a Director of Investigation for making investigations for the purposes of this Act and may, in addition, make provision with respect to the number of members of the staff of the Commission and their conditions of service;

Provided that the conditions of service of the Director or any member of the staff of the Commission shall not be varied to his disadvantage after his appointment.

9. Salaries, etc., to be defrayed out of the Consolidated Fund of India.

The salaries and allowances payable to the members and the administrative ex

penses, including salaries, allowances and pensions, payable to or in respect of officers and other employees of the Commission, shall be delayed out of the Consolidated Fund of India

Jurisdiction, Powers And Procedure Of The Commission

10. Inquiry into monopolistic or restrictive trade practices by Commission.

The Commission may inquire into —

- (a) any restrictive trade practice —
 - (i) upon receiving a complaint of facts which constitute such practice from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers, or
 - (ii) upon a reference made to it by the Central Government or a State Government, or,
 - (iii) upon an application made to it by the Registrar, or
 - (iv) upon its own knowledge or information,
- (b) any monopolistic trade practice, upon a reference made to it by the Central Government or upon its own knowledge or information

11. Investigation by Director before issue of process in certain cases.

In respect of any restrictive trade practice of which complaint is made under sub-clause (i) of clause (a) of Section 10, the Commission shall, before issuing any process requiring the attendance of the person complained against, cause a preliminary investigation to be made by the Director in such manner as it may direct, for the purpose of satisfying itself that the complaint requires to be inquired into.

12. Powers of the Commission.

(1) The Commission shall, for the purposes of any inquiry under this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the requisitioning of any public record from any Court or office;
- (e) the issuing of any commission for the examination of witnesses.

(2) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code, and the Commission shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898

(3) The Commission shall have power to require any person —

- (a) to produce before, and allow to be examined and kept by an officer of the Commission specified in this behalf, such books, accounts or other documents in the custody or under the control of the person so required as may be specified or

described in the requisition being documents relating to any trade practice, the examination of which may be required for the purposes of this Act; and

(b) to furnish to an officer so specified such information as respects the trade practice as may be required for the purposes of this Act or such other information as may be in his possession in relation to the trade carried on by any other person.

(4) For the purpose of enforcing the attendance of witnesses the local limits of the Commission's jurisdiction shall be the limits of the territory of India.

13. Orders of Commission may be subject to conditions, etc.

(1) In making any order under this Act, the Commission may make such provisions not inconsistent with this Act, as it may think necessary or desirable for the proper execution of the order and any person who commits a breach of or fails to comply with any obligation imposed on him by any such provision shall be deemed to be guilty of an offence under this Act.

(2) Any order made by the Commission may be amended or revoked at any time in the manner in which it was made

(3) An order made by the Commission may be general in its application or may be limited to any particular class of traders or a particular class of trade practice or a particular trade Practice or a particular locality

14. Orders where party concerned does not carry on business in India.

Where any practice substantially falls within monopolistic or restrictive trade practice, or both, relating to the production, supply, distribution or control of goods of any description or the provision of any services and any party to such practice does not carry on business in India, an order may be made under this Act with respect to that part of the practices which is carried on in India.

15. Restriction of application of orders in certain cases.

No order made under this Act with respect to any monopolistic or restrictive trade practice shall operate so as to restrict —

(a) the right of any person to restrain any infringement of a patent granted in India, or

(b) any person as to the condition which he attaches to a licence to do anything, the doing of which but for the licence would be an infringement of a patent granted in India; or

(c) the right of any persons to export goods from India, to the extent to which the monopolistic or restrictive trade practice relates exclusively to the production, supply, distribution or control of goods for such export.

16. Sittings of the Commission.

(1) The central office of the Commission shall be in Delhi but the Commission may sit at such places in India and at such times as may be most con

venient for the exercise of its powers or functions under this Act.

(2) The powers or functions of the Commission may be exercised or discharged by Benches formed by the Chairman of the Commission from among the members.

17. Hearing to be in public except in special circumstances.

(1) Subject to the provisions of subsection (2), the hearing of proceedings before the Commission shall be in public.

(2) Where the Commission is satisfied that it is desirable to do so by reason of the confidential nature of any offence or matter or for any other reason, the Commission may —

(a) hear the proceeding or any part thereof in private;

(b) give directions as to the persons who may be present thereat;

(c) prohibit or restrict the publication of evidence given before the Commission (whether in public or in private) or of matters contained in documents filed before the Commission.

18. Procedure of the Commission.

(1) Subject to the provisions of this Act, the Commission shall have power to regulate —

(a) the procedure and conduct of its business;

(b) the procedure of Benches of the Commission;

(c) the delegation to one or more members of such powers or functions as the Commission may specify.

(2) In particular, and without prejudice to the generality of the foregoing provisions, the powers of the Commission shall include the power to determine the extent to which persons interested or claiming to be interested in the subject-matter of any proceeding before it are allowed to be present or to be heard, either by themselves or by their representatives or to cross-examine witnesses or otherwise to take part in the proceeding.

19. Orders of the Commission to be noted in the register.

The Commission shall cause an authenticated copy of every order made by it in respect of a restrictive trade practice to be forwarded to the Registrar who shall have it recorded in such manner as may be prescribed.

CHAPTER III

Concentration of Economic Power

PART A

20. Undertakings to which this Part applies.

This Part shall apply to —

(a) an undertaking if the total value of—

(i) its own assets, or

(ii) its own assets together with the assets of its inter-connected undertakings, is not less than twenty crores of rupees;

(b) a dominant undertaking —

(i) where it is a single undertaking, the value of its assets, or

(ii) where it consists of more than one undertaking, the sum-total of the value

of the assets of all the inter-connected undertakings constituting the dominant undertaking, is not less than one crore of rupees.

Explanation. — The value referred to in this section shall be,

(i) in the case of an undertaking referred to in clause (a) or clause (b), as the case may be, the value of its assets on the last day of its financial year which closes during the calendar year immediately preceding the calendar year in which the question arises as to whether this Part does or does not apply to such undertaking; and

(ii) in the case of an inter-connected undertaking, the value of its assets on the last day of its financial year which closes during the calendar year immediately preceding the calendar year in which the question arises as to whether this Part does or does not apply to the undertaking referred to in clause (a) or clause (b).

21. Expansion of undertakings.

(1) Subject to the provisions of Section 23, where an undertaking to which this Part applies proposes to substantially expand its activities by the issue of fresh capital or by the installation of new machinery or other equipment or in any other manner, it shall, before taking any action to give effect to the proposal for such expansion, give to the Central Government notice in the prescribed form, of its intention to make such expansion, stating therein the scheme of finance with regard to the proposed expansion, whether it is connected with any other undertaking or undertakings and if so, giving particulars relating to all the inter-connected undertakings and such other information as may be prescribed.

(2) Notwithstanding anything contained in any other law for the time being in force, no undertaking shall give effect to any proposal for its substantial expansion unless such proposal has been approved by the Central Government.

Explanation. — For the purpose of this section, an undertaking shall be deemed to expand substantially if, after such expansion, —

(a) in the case of an undertaking to which clause (a) of section 20 applies,—

(i) the value of its assets, before the expansion, would result in an increase by not less than twenty-five per cent of such value, or

(ii) the production, supply or distribution of any goods or the provision of any services by it before the expansion, would result in an increase by not less than twenty-five per cent of the goods produced, supplied, distributed or controlled or services provided, by it;

(b) in the case of an undertaking to which clause (b) of section 20 applies, the production, supply, distribution or control of any goods or the provision of any services by it would result in an increase by not less than twenty-five per cent of the goods produced, supplied, distributed or controlled, or services provided, by it before the expansion.

(3) (a) The Central Government may call upon the undertaking concerned to

satisfy it that the proposed expansion or the scheme of finance with regard to such expansion is not likely to lead to the concentration of economic power to the common detriment or is not likely to be prejudicial to the public interest in any other manner and thereupon the Central Government may, if it is satisfied that it is expedient in the public interest so to do, by order accord approval to the proposal for such expansion.

(b) If the Central Government is of opinion that no such order as is referred to in cl. (a) can be made without a further inquiry, it may refer the application to the Commission for an inquiry and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon.

(c) Upon receipt of the report of the Commission, the Central Government may pass such orders with regard to the proposal for the expansion of the undertaking as it may think fit.

(d) No scheme of any expansion approved by the Central Government and no scheme of finance with regard to such expansion shall be modified except with the previous approval of the Central Government.

(4) Nothing in this section shall apply to any industrial undertaking (which is not a dominant undertaking) to which Section 13 of the Industries (Development and Regulation) Act, 1951, applies, in so far as the expansion relates to production of the same or similar type of goods.

22. Establishment of new undertakings.

(1) No person or authority, other than Government, shall, after the commencement of this Act, establish any new undertaking which, when established, would become an inter-connected undertaking of an undertaking to which clause (a) of Section 20 applies, except under, and in accordance with the previous permission of the Central Government.

(2) Any person or authority intending to establish a new undertaking referred to in sub-section (1) shall, before taking any action for the establishment of such undertaking, make an application to the Central Government in the prescribed form for that Government's approval to the proposal of establishing any undertaking and shall set out in such application information with regard to the inter-connection, if any, of the new undertaking (which is intended to be established) with every other undertaking, the scheme of finance for the establishment of the new undertaking and such other information as may be prescribed.

(3) (a) The Central Government may call, upon the person or authority to satisfy it that the proposal to establish a new undertaking or the scheme of finance with regard to such proposal is not likely to lead to the concentration of economic power to the common detriment or is not likely to be prejudicial to the public interest in any other manner and thereupon the Central

Government may, if it is satisfied that it is expedient in the public interest so to do, by order accord approval to the proposal.

(b) If the Central Government is of opinion that no such approval as is referred to in cl. (a) can be made without further inquiry, it may refer the application to the Commission for an inquiry and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon.

(c) Upon receipt of the report of the Commission, the Central Government may pass such order with regard to the proposal for the establishment of a new undertaking as it may think fit.

(d) No scheme of finance on the strength of which the establishment of a new undertaking has been approved by the Central Government shall be modified except with previous approval of that Government.

23. Merger, amalgamation and take over.

(1) Notwithstanding anything contained in any other law for the time being in force,—

(a) no scheme of merger or amalgamation of an undertaking to which this Part applies with any other undertaking,

(b) no scheme of merger or amalgamation of two or more undertakings which would have the effect of bringing into existence an undertaking to which clause (a) or clause (b) of S. 20 would apply,

shall be sanctioned by any Court or be recognised for any purpose or be given effect to unless the scheme for such merger or amalgamation has been approved by the Central Government under this Act.

(2) If any undertaking to which this Part applies frames a scheme of merger or amalgamation with any other undertaking, or a scheme of merger or amalgamation is proposed between two or more undertakings, and, if as a result of such merger or amalgamation, an undertaking would come into existence to which clause (a) or clause (b) of Section 20 would apply, it shall, before taking any action to give effect to the proposed scheme, make an application to the Central Government in the prescribed form with a copy of the scheme annexed thereto, for the approval of the scheme.

(3) Nothing in sub-section (1) or sub-section (2) shall apply to the scheme of merger or amalgamation of such inter-connected undertakings as are not dominant undertakings and as produce the same goods.

(4) If an undertaking to which this Part applies proposes to acquire by purchase, take over or otherwise the whole or part of an undertaking which will or may result either —

(a) in the creation of an undertaking to which this Part would apply; or

(b) in the undertaking becoming an inter-connected undertaking of an undertaking to which this Part applies, it shall, before any effect to its proposals make an application in writing to the Central Government in the prescribed form of its intention to make

such acquisition, stating therein information regarding its inter-connection with other undertakings, the scheme of finance with regard to the proposed acquisition and such other information as may be prescribed.

(5) No proposal referred to in sub-section (4) which has been approved by the Central Government and no scheme of finance with regard to such proposal shall be modified except with the previous approval of the Central Government.

(6) On receipt of an application under sub-section (2) or sub-section (4), the Central Government may, if it thinks fit, refer the matter to the Commission for an inquiry and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon.

(7) On receipt of the Commission's report the Central Government may pass such orders as it may think fit.

(8) Notwithstanding anything contained in any other law for the time being in force, no proposal to acquire by purchase, take over or otherwise of an undertaking to which this Part applies shall be given effect to unless the Central Government has made an order according its approval to the proposal.

(9) Nothing in sub-section (4) shall apply to the acquisition by an undertaking, which is not a dominant undertaking, of another undertaking which is not also a dominant undertaking, if both such undertakings produce the same goods

Provided that nothing in this sub-section shall apply if as a result of such acquisition an undertaking comes into existence to which clause (a) or clause (b) of Section 20 would apply.

24. Merger, amalgamation or take over in contravention of Section 23.

Where any merger, amalgamation or take over is being, or has been, effected in contravention of the provisions of Section 23, the Central Government may, after such consultation with the Commission as it may consider necessary, direct, without prejudice to any penalty which may be imposed under this Act for such contravention, the undertaking concerned to cease and desist from such contravention, to divest itself of the stock or other share capital or assets so acquired and to carry out such further directions as the Central Government may, in all the circumstances of the case, issue.

25. Directors of undertakings not to be appointed directors of other undertakings.

(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no person, who is a director of an undertaking to which this Part applies, shall be appointed, after the commencement of this Act, as a director of any other undertaking except with the prior approval of the Central Government and any appointment contrary to the provisions of this section shall be void:

Provided that the approval of the Central Government shall not be necessary to the appointment of a person as a direc-

tor of an undertaking unless he holds such office in more than ten inter-connected undertakings.

(2) Notwithstanding anything contained in sub-section (1), no act done by a person as a director shall be invalid merely on the ground that his appointment was void by reason of this section or of any provision of this Part:

Provided that nothing in this section shall be deemed to give validity to any act done by a director after his appointment has been shown to the undertaking and the director concerned to be void.

(3) Notwithstanding anything to the contrary contained in any other law for the time being in force, every director holding such directorship as is not consistent with the provisions of this section shall, unless his appointment expires earlier, obtain within a period of one year from the commencement of this Act, the approval of the Central Government to such appointment and if he fails to do so, his appointment shall, on the expiry of the said period, become void.

(4) The provisions of sub-sections (1), (2) and (3) shall, as far as may be, apply to partners of any firm which is an undertaking within the meaning of this Act, as they apply to directors of companies.

26. Registration of undertakings to which Part A applies.

(1) Every undertaking to which this Part applies at the commencement of this Act or to which the provisions of that Part become applicable thereafter, shall, within sixty days from such commencement or the date on which that Part becomes first applicable to it, or within such further time as the Central Government may, on sufficient cause being shown, allow, make an application (in such form and containing such particulars as may be prescribed) to the Central Government for its registration as such undertaking.

(2) The Central Government shall, on receipt of the application referred to in sub-section (1), forthwith enter the name of the undertaking in a register to be maintained for the purpose and issue to the undertaking concerned a certificate of registration containing such particulars as may be prescribed.

(3) Any undertaking which has ceased to be an undertaking to which this Part applies may, at any time after such ceasing, apply to the Central Government for cancellation of the registration and the Central Government may, after making such inquiry as it may think fit, cancel the registration of such undertaking and notify such cancellation in the Official Gazette.

PART B

27. Division of undertakings.

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Central Government may, if it is of opinion that the working of an undertaking to which Part A of this Chapter applies, is prejudicial to the public interest, or has led, or is leading, or is likely to lead, to the adoption of any monopolistic or restrictive trade

practices, refer the matter to the Commission for an inquiry as to whether it is expedient in the public interest to make an order,—

(a) for the division of any trade of the undertaking by the sale of any part of the undertaking or assets thereof, or,

(b) for the division of any undertaking or inter-connected undertakings into such number of undertakings as the circumstances of the case may justify, and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon and shall, where it is of opinion that a division ought to be made, specify the manner of the division and compensation, if any, payable for such division.

Explanation. — For the purposes of this section all activities carried on by way of trade by an undertaking or two or more interconnected undertakings may be treated as a single trade

(2) If the Commission so recommends, the Central Government may, notwithstanding anything contained in any other law for the time being in force by an order in writing direct the division of any trade of the undertaking or of the undertaking or interconnected undertakings.

(3) Notwithstanding anything contained in any other law for the time being in force, the order referred to in sub-section (2) may provide for all such matters as may be necessary to give effect to the division of any trade of the undertaking or of the undertaking or inter-connected undertakings, including,—

(a) the transfer or vesting of property, rights, liabilities or obligations;

(b) the adjustment of contracts either by the discharge or reduction of any liability or obligation or otherwise;

(c) the creation, allotment, surrender or cancellation of any shares, stock or securities;

(d) the payment of compensation;

(e) the formation, or winding up of an undertaking or the amendment of the memorandum and articles of association or any other instruments regulating the business of any undertaking;

(f) the extent to which and the circumstances in which provisions of the order affecting an undertaking may be altered by the undertaking and the registration thereof;

(g) the continuation, with such changes as may be necessary, of parties to any legal proceeding.

(4) Where the Central Government makes, or intends to make, an order for any purpose mentioned in sub-section (3), it may, with a view to achieving that purpose, prohibit or restrict the doing of anything that might impede the operation or making of the order and may impose on any person such obligations as to the carrying on of any activities or the safeguarding of any assets, as it may think fit, or it may, by order provide for the carrying on of any activities or safeguarding of any assets either by the appointment of a person to conduct, or supervise the conduct of, any such activities or in any other manner.

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract or in any memorandum or articles of association, an officer of a company who ceases to hold office as such in consequence of the division of an undertaking or inter-connected undertakings shall not be entitled to claim any compensation for such cesser.

PART C

28. Matters to be considered by the Central Government before according approval.

In exercising its powers under Part A or Part B of this Chapter, the Central Government, or, as the case may be, the Commission, shall take into account all matters which appear in the particular circumstances to be relevant and, among other things, regard shall be had to the need consistently with the general economic position of the country—

(a) to achieve the production supply and distribution, by most efficient and economical means of goods of such types and qualities, in such volume and at such prices as will best meet the requirements of the defence of India, and home and overseas markets;

(b) to have the trade organised in such a way that its efficiency is progressively increased;

(c) to ensure the best use and distribution of men, materials and industrial capacity in India;

(d) to effect technical and technological improvements in trade and expansion of existing markets and the opening up of new markets;

(e) to encourage new enterprises as a countervailing force to the concentration of economic power to the common detriment;

(f) to regulate the control of the material resources of the community to subserve the common good; and

(g) to reduce disparities in development between different regions and more especially in relation to areas which have remained markedly backward.

29. Opportunity of being heard.

Before making an order under this Chapter, the Central Government shall give a reasonable opportunity of being heard to any person who is, or may be, in its opinion, interested in the matter under the consideration of that Government.

30. Time within which action should be taken.

(1) Where the Central Government is of opinion that no approval can be accorded under Section 21 or Section 22, or no order under Section 23 can be made, unless a further inquiry has been held into the matter by the Commission, it shall refer the matter to the Commission within sixty days from the date of receipt of the notice under Section 21, application under Section 22 or the proposal under Section 23, as the case may be:

Provided that where further particulars in connection with any such notice, application or proposal are called for by the

Central Government, the said period of sixty days shall be computed from the date on which such further particulars are furnished to that Government.

(2) Where any notice, application or proposal under this Chapter is referred to the Commission for an inquiry, it shall be the duty of the Commission to make its report on the matter referred to it within ninety days from the date on which the reference is received by it, except where the Commission, for special reasons recorded by it in writing, is of opinion that the report cannot be made by it within the said period of ninety days.

(3) Every notice, application or proposal in respect of which a report has been submitted by the Commission to the Central Government shall be disposed of by that Government within sixty days from the date of receipt of the report of the Commission.

(4) Every notice, application or proposal which has not been referred to the Commission, shall be disposed of by the Central Government within ninety days from the date on which such notice, application or proposal, as the case may be, is received by it, except where the Central Government, for special reasons recorded by it in writing, is of opinion that the notice, application or proposal, as the case may be, cannot be disposed of within the said period of ninety days.

CHAPTER IV

Monopolistic Trade Practices

31. Investigation by Commission of monopolistic trade practices.

(1) Where it appears to the Central Government that one or more monopolistic undertakings are indulging in any monopolistic trade practice, or that, monopolistic trade practices prevail in respect of any goods or services that Government may refer the matter to the Commission for an inquiry and the Commission shall, after such hearing as it thinks fit, report to the Central Government its findings thereon.

(2) If as a result of such inquiry the Commission makes a finding to the effect that, having regard to the economic conditions prevailing in the country and to all other matters which appear in particular circumstances to be relevant, the trade practice operates or is likely to operate against the public interest, the Central Government may, notwithstanding anything contained in any other law for the time being in force, pass such orders as it may think fit to remedy or prevent any mischiefs which result or may result from such trade practice.

(3) Any order made by the Central Government under this section may include an order—

(a) regulating the production, supply, distribution or control of any goods by the undertaking or the control or supply of any service by it and fixing the terms of sale (including prices) or supply thereof;

(b) prohibiting the undertaking from resorting to any act or practice or from pursuing any commercial policy which

prevents or lessens, or is likely to prevent or lessen, competition in the production, supply or distribution of any goods or provision of any services:

(c) fixing standards for the goods used or produced by the undertakings;

(d) declaring unlawful, except to such extent and in such circumstances as may be provided by or under the order, the making or carrying out of any such agreement as may be specified or described in the order;

(e) requiring any party to any such agreement as may be so specified or described to determine the agreement within such time as may be so specified, either wholly or to such extent as may be so specified.

32. Monopolistic trade practice when to be deemed to be prejudicial to public interest.

For the purposes of this Chapter, a monopolistic trade practice shall be deemed to be prejudicial to public interest if, having regard to the economic conditions prevailing in the country and to all other matters which are relevant in the particular circumstances, the effect of the trade practice is or would be—

(a) to increase unreasonably the cost relating to the production, supply or distribution of goods or the performance of any service;

(b) to increase unreasonably—

(i) the prices at which goods are sold, or

(ii) the profits derived from the production, supply or distribution of goods or from the performance of any service;

(c) to reduce or limit unreasonably competition in the production, supply or distribution of any goods (including their sale or purchase) or the provision of any service;

(d) to limit or prevent unreasonably the supply of goods to consumers, or the provision of any service;

(e) to result in a deterioration in the quality of any goods or in the performance of any service.

CHAPTER V

Registration of Agreement Relating to Restrictive Trade Practices

33. Registrable agreements relating to restrictive trade practices.

(1) Any agreement relating to a restrictive trade practice falling within one or more of the following categories shall be subject to registration in accordance with the provisions of this Chapter, namely:—

(a) any agreement which restricts, or is likely to restrict, by any method the persons or classes of persons to whom goods are sold or from whom goods are bought;

(b) any agreement requiring a purchaser of goods, as a condition of such purchase, to purchase some other goods;

(c) any agreement restricting in any manner the purchaser in the course

of his trade from acquiring or otherwise dealing in any goods other than those of the seller or any other person;

(d) any agreement to purchase or sell goods or to tender for the sale or purchase of goods only at prices or on terms or conditions agreed upon between the sellers or purchasers;

(e) any agreement to grant or allow concessions or benefits, including allowances, discount, rebates or credit in connection with, or by reason of, dealings;

(f) any agreement to sell goods on condition that the prices to be charged on re-sale by the purchaser shall be the prices stipulated by the seller unless it is clearly stated that prices lower than those prices may be charged;

(g) any agreement to limit, restrict or withhold the output or supply of any goods or allocate any area or market for the disposal of the goods,

(h) any agreement not to employ or restrict the employment of any method, machinery or process in the manufacture of goods;

(i) any agreement for the exclusion from any trade association of any person carrying on or intending to carry on, in good faith the trade in relation to which the trade association is formed;

(j) any agreement to sell goods at such prices as would have the effect of eliminating competition or a competitor;

(k) any agreement not hereinbefore referred to in this section which the Central Government may, by notification in the Official Gazette, specify for the time being as being one relating to a restrictive trade practice within the meaning of this sub-section pursuant to any recommendation made by the Commission in this behalf;

(l) any agreement to enforce the carrying out of any such agreement as is referred to in this sub-section

(2) The provisions of this section shall apply, so far as may be, in relation to agreements making provision for services as they apply in relation to agreements connected with the production, supply, distribution or control of goods.

(3) No agreement falling within this section shall be subject to registration in accordance with the provisions of this Chapter if it is expressly authorised by or under any law for the time being in force or has the approval of the Central Government or if the Government is a party to such agreement

34. Registrar of restrictive trade agreements.

(1) For maintaining a register of agreements subject to registration under this Act and for performing the other functions imposed on him by this Act, there shall be appointed by the Central Government an officer to be known as the Registrar of Restrictive Trade Agreements

(2) The Central Government may appoint as many persons as it thinks fit to be Additional, Joint, Deputy or Assistant Registrars for the purpose of assisting the Registrar in the performance of his functions under this Act.

35. Registration of agreements.

(1) The Central Government shall, by notification in the Official Gazette, specify a day (hereinafter referred to as the appointed day) on and from which every agreement falling within Section 33 shall become registrable under this Act.

Provided that different days may be appointed for different categories of agreements.

(2) Within sixty days from the appointed day, in the case of an agreement existing on that day, and in the case of an agreement made after the appointed day, within sixty days from the making thereof, there shall be furnished to the Registrar in respect of every agreement falling within Sec. 33, the following particulars, namely:—

(a) the names of the persons who are parties to the agreement; and

(b) the whole of the terms of the agreement.

(3) If at any time after the agreement has been registered under this section, the agreement is varied (whether in respect of the parties or in respect of the terms thereof) or determined otherwise than by efflux of time, particulars of the variation or determination shall be furnished to the Registrar within one month after the date of the variation or determination

(4) The particulars to be furnished under this section in respect of an agreement shall be furnished—

(a) in so far as the agreement or any variation or determination of the agreement is made by an instrument in writing, by the production of the original or a true copy of that agreement; and

(b) in so far as the agreement or any variation or determination of the agreement is not so made, by the production of a memorandum in writing signed by the person by whom the particulars are furnished.

(5) The particulars to be furnished under this section shall be furnished by or on behalf of any person who is a party to the agreement, or as the case may be, was a party thereto immediately before its determination, and where the particulars are duly furnished by or on behalf of any such person, the provisions of this section shall be deemed to be complied with on the part of all such persons.

Explanation I.— Where any agreement subject to registration under this section relates to the production, supply, distribution or control of goods or the performance of any services in India and any party to the agreement carries on business in India, the agreement shall be deemed to be an agreement within the meaning of this sec-

tion, notwithstanding that any other party to the agreement does not carry on business in India.

Explanation II— Where an agreement is made by a trade association, the agreement for the purposes of this section shall be deemed to be made by all persons who are members of the association or represented thereon as if each such person were a party to the agreement.

Explanation III— Where specific recommendations, whether express or implied, are made by or on behalf of a trade association to its members, or to any class of its members, as to the action to be taken or not to be taken by them in relation to any matter effecting the trade conditions of those members, this section shall apply in relation to the agreement for the constitution of the association notwithstanding any provision to the contrary therein as if it contained a term by which each such member and any person represented on the association by any such member agreed with the association to comply with those recommendations and any subsequent recommendations affecting those recommendations.

36. Keeping the register.

(1) For the purposes of this Act, the Registrar shall keep a register in the prescribed form and shall enter therein the prescribed particulars as regards agreements subject to registration.

(2) The Registrar shall provide for the maintenance of a special section of the register for the entry or filing in that section of such particulars as the Commission may direct, being—

(a) particulars containing information, the publication of which would, in the opinion of the Commission be contrary to the public interest,

(b) particulars containing information as to any matter, being information the publication of which, in the opinion of the commission, would substantially damage the legitimate business interests of any person

(3) Any party to an agreement required to be registered under Sec. 35 may apply to the Registrar—

(i) for the agreement or any part of the agreement to be excluded from the provisions of this Chapter relating to the registration on the ground that the agreement or part thereof has no substantial economic significance, or

(ii) for inclusion of any provision of the agreement in the special section, and the Registrar shall dispose of the matter in conformity with any general or special directions issued by the Commission in this behalf.

CHAPTER VI

Control of Certain Restrictive Trade Practices

37. Investigation into restrictive trade practices by Commission.

(1) The Commission may inquire into any restrictive trade practice, whether the agreement, if any, relating

thereto has been registered under Section 35 or not, which may come before it for inquiry and, if after such inquiry it is of opinion that the practice is prejudicial to the public interest, the Commission may, by order, direct that—

(a) the practice shall be discontinued or shall not be repeated;

(b) the agreement relating thereto shall be void in respect of such restrictive trade practice or shall stand modified in respect thereof in such manner as may be specified in the order

(2) The Commission may, instead of making any order under this section, permit the party to any restrictive trade practice, if he so applies to take such steps within the time specified in this behalf by the Commission as may be necessary to ensure that the trade practice is no longer prejudicial to the public interest, and in any such case, if the Commission is satisfied that the necessary steps have been taken within the time specified, it may decide not to make any order under this section in respect of that trade practice.

(3) No order shall be made under sub-section (1) in respect of—

(a) any agreement between buyers relating to goods which are bought by the buyers for consumption and not for ultimate re-sale whether in the same or different form, type or specie or as constituent of some other goods;

(b) a trade practice which is expressly authorised by any law for the time being in force

(4) Notwithstanding anything contained in this Act, if the Commission, during the course of an inquiry under sub-section (1), finds that a monopolistic undertaking is indulging in restrictive trade practices, it may, after passing such orders under sub-section (1) or sub-section (2) with respect to the restrictive trade practices as it may consider necessary submit the case along with its findings thereon to the Central Government with regard to any monopolistic trade practice for such action as that Government may take under Section 31.

38. Presumption as to the public interest.

(1) For the purposes of any proceedings before the Commission under Section 37, a restrictive trade practice shall be deemed to be prejudicial to the public interest unless the Commission is satisfied of any one or more of the following circumstances, that is to say—

(a) that the restriction is reasonably necessary, having regard to the character of the goods to which it applies, to protect the public against injury (whether to persons or to premises) in connection with the consumption, installation or use of those goods;

(b) that the removal of the restriction would deny to the public as purchasers, consumers or users of any goods, other specific and substantial benefits or advantages enjoyed or like-

ly to be enjoyed by them as such, whether by virtue of the restriction itself or of any arrangements or operations resulting therefrom;

(c) that the restriction is reasonably necessary to counter-act measures taken by any one person not party to the agreement with a view to preventing or restricting competition in or in relation to the trade or business in which the persons party thereto are engaged;

(d) that the restriction is reasonably necessary to enable the persons party to the agreement to negotiate fair terms for the supply of goods to, or the acquisition of goods from, any one person not party thereto who controls a preponderant part of the trade or business of acquiring or supplying such goods, or for the supply of goods to any person not party to the agreement and not carrying on such a trade or business who, either alone or in combination with any other such persons, controls a preponderant part of the market for such goods;

(e) that, having regard to the conditions actually obtaining or reasonably foreseen at the time of the application, the removal of the restriction would be likely to have a serious and persistent adverse effect on the general level of unemployment in an area, or in areas taken together, in which a substantial proportion of the trade, or industry to which the agreement relates is situated;

(f) that, having regard to the conditions actually obtaining or reasonably foreseen at the time of the application, the removal of the restriction would be likely to cause a reduction in the volume or earnings of the export business which is substantial either in relation to the whole export business of India or in relation to the whole business (including export business) of the said trade or industry;

(g) that the restriction is reasonably required for purposes in connection with the maintenance of any other restriction accepted by the parties, whether under the same agreement or under any other agreement between them, being a restriction which is found by the Commission not to be contrary to the public interest upon grounds other than those specified in this paragraph, or has been so found in previous proceedings before the Commission; or

(h) that the restriction does not directly or indirectly restrict or discourage competition to any material degree in any relevant trade or industry and is not likely to do so.

and is further satisfied (in any such case) that the restriction is not unreasonable having regard to the balance between those circumstances and any detriment to the public or to persons not parties to the agreement (being purchasers, consumers or users of goods produced or sold by such parties, or persons engaged or seeking to become engaged in the trade or business of selling such goods or of producing or selling similar goods) resulting

or likely to result from the operation of the restriction.

(2) In this section "purchasers", "consumers" and "users" include persons purchasing, consuming or using for the purpose or in course of trade or business or for public purposes; and references in this section to any one person include references to any two or more persons being inter-connected undertakings or individuals carrying on business in partnership with each other.

39. Special conditions for avoidance of conditions for maintaining re-sale prices.

(1) Without prejudice to the provisions of this Act with respect to registration and to any of the powers of the Commission or of the Central Government under this Act, any term or condition of a contract for the sale of goods by a person to a wholesaler or retailer or any agreement between a person and a wholesaler or retailer relating to such sale shall be void in so far as it purports to establish or provide for the establishment of minimum prices to be charged on the re-sale of goods in India.

(2) After the commencement of this Act, no supplier of goods whether directly or through any person or association of persons acting on his behalf shall notify to dealers or otherwise publish on or in relation to any goods, a price stated or calculated to be understood as the minimum price which may be charged on the re-sale of the goods in India.

(3) This section shall apply to patented articles (including articles made by a patented process and articles made under any trade mark) as it applies to other goods and notice of any term or condition which is void by virtue of this section or which would be so void if included in a contract of sale or agreement relating to the sale of such article shall be of no effect for the purpose of limiting the right of a dealer to dispose of that article without infringement of the patent or trade mark, as the case may be.

Provided that nothing in this section shall affect the validity as between the parties and their successors, of any term or condition of a licence granted by the proprietor of a patent or trade mark by a licensee under any such licence or of any assignment of a patent or trade mark, so far as it regulates the price at which articles produced or processed by the licensee or the assignee may be sold by him.

Explanation. — In this section and in Section 40, the term "supplier", in relation to supply of any goods, means a person who supplies goods to any person for the ultimate purpose of re-sale and includes a wholesaler, and the term "dealer" includes a supplier and a retailer.

40. Prohibition of other measures for maintaining re-sale prices.

(1) Without prejudice to the provisions of this Act with respect to regis-

tration and to any of the powers of the Commission or of the Central Government under this Act, no supplier shall withhold supplies of any goods from any wholesaler or retailer seeking to obtain them for re-sale in India on the ground that the wholesaler or retailer—

(a) has sold in India at a price below re-sale price, goods obtained, either directly or indirectly, from that supplier, or has supplied such goods, either directly or indirectly, to a third party who had done so; or

(b) is likely if the goods are supplied to him to sell them in India at a price below that price or supply them, either directly or indirectly, to a third party who would be likely to do so.

(2) Nothing contained in sub-section (1) shall render it unlawful for a supplier to withhold supplies of goods from any wholesaler or retailer or to cause or procure another supplier to do so if he has reasonable cause to believe that the wholesaler or the retailer, as the case may be, has been using as loss leaders any goods of the same or a similar description whether obtained from that supplier or not.

(3) A supplier of goods shall be deemed to be withholding supplies of goods from a dealer if he—

(a) refuses or fails to supply those goods to the order of the dealer;

(b) refuses to supply those goods to the dealer except at prices, or on terms or conditions as to credit, discount or other matters which are less favourable than those at or on which he normally supplies those goods to other dealers carrying on business in similar circumstances; or

(c) treats a dealer, in spite of a contract with such dealer for the supply of goods, in a manner less favourable than that in which he normally treats other dealers in respect of time or methods of delivery or other matters arising in the performance of the contract.

(4) A supplier shall not be deemed to be withholding supplies of goods on any of the grounds mentioned in sub-section (1), if, in addition to that ground, he has any other ground which alone would entitle him to withhold such supplies.

Explanation I.—“Re-sale price”, in relation to sale of goods of any description, means any price notified to the dealer or otherwise published by or on behalf of the supplier of the goods in question (whether lawfully or not) as the price or minimum price which is to be charged on, or is recommended as appropriate for, a sale of that description or any price prescribed or purporting to be prescribed for that purpose by any contract or agreement between the wholesaler or retailer and any such supplier.

Explanation II.—A wholesaler or retailer is said to use goods as loss leaders when he re-sells them otherwise than in a genuine seasonal or clearance sale not for the purpose of making a profit on the re-sale but for the purpose of

attracting to the establishment at which the goods are sold, customers likely to purchase other goods or otherwise for the purpose of advertising his business.

41. Power of Commission to exempt particular classes of goods from Sections 39 and 40.

(1) The Commission may, on a reference made to it by the Registrar or any other person interested, by order, direct that goods of any class specified in the order shall be exempt from the operation of Sections 39 and 40 if the Commission is satisfied that in default of a system of maintained minimum re-sale prices applicable to those goods—

(a) the quality of goods available for sale or the varieties of goods so available would be substantially reduced to the detriment of the public as consumers or users of those goods, or

(b) the prices at which the goods are sold by retail would, in general and in the long run, be increased to the detriment of the public as such consumers or users, or

(c) any necessary services actually provided in connection with or after the sale of the goods by retail would cease to be so provided or would be substantially reduced to the detriment of the public as such consumers or users.

(2) On a reference under this section in respect of goods of any class which have been the subject of proceedings before the Commission under Section 31, the Commission may treat as conclusive any evidence of fact made in those proceedings.

CHAPTER VII

Power to Obtain Information And Appoint Inspectors

42. Power of Registrar to obtain information.

(1) If the Registrar has reasonable cause to believe that any person is a party to an agreement subject to registration under Section 35, he may give notice to that person requiring him within such time, not less than thirty days, as may be specified in the notice, to notify to the Registrar whether he is a party to any such agreement, and, if so, to furnish to the Registrar such particulars of the agreement as may be specified in the requisition.

(2) The Registrar may give notice to any person by whom particulars are furnished under Section 35 in respect of an agreement or to any other person being a party to the agreement requiring him to furnish to the Registrar such further documents or information in his possession or control as the Registrar may consider expedient for the purpose of, or in connection with, the registration of the agreement.

(3) Where a notice under this section is given to a trade association, the notice may be given to the secretary, manager or other similar officer of the association and for the purposes of this section any such association shall be treated as a party to an agreement to

which members of the association, or persons represented on the association by those members, are parties as such.

(4) If the particulars called for under sub-section (1) or sub-section (2) are not furnished, the Commission may, on the application of the Registrar,—

(a) order the person or, as the case may be, the association to furnish those particulars to the Registrar within such time as may be specified in the order, or

(b) authorise the Registrar to treat the particulars contained in any document or information in his possession as the particulars relating to the agreement, or

(c) in case the Commission is satisfied that the failure to furnish the particulars is wilful, make an order restraining wholly or partly the parties to the agreement from acting on such agreement and from making any other agreement to the like effect.

43. Power to call for information.

Notwithstanding anything contained in any other law for the time being in force, the Central Government may, by a general or special order, call upon any undertaking to furnish to that Government periodically or as and when required any information concerning the activities carried on by the undertaking, the connection between it and any other undertaking, including such other information relating to its organisation, business, cost of production, conduct, trade practice or management, as may be prescribed to enable that Government to carry out the purposes of this Act

44. Power to appoint Inspectors.

(1) The Central Government may, if it is of opinion that there are circumstances suggesting that an undertaking is indulging in any monopolistic or restrictive trade practice or is, in any way, trying to acquire any control over any dominant or inter-connected undertaking, appoint one or more inspectors for making an investigation into the affairs of the undertaking.

(2) The provisions of Section 240 and Section 240-A of the Companies Act, 1956 so far as may be, shall apply to an investigation made by an inspector appointed under this section as they apply to an investigation made by the inspector appointed under that Act.

CHAPTER VIII

Offences And Penalties

45. Penalty for contravention of Section 21.

If any person contravenes the provisions of Section 21 or any order made thereunder, he shall be punishable with fine which may extend to rupees one lakh.

46. Penalty for contravention of Section 22 or Section 23 or Section 24 or Section 27.

If any person contravenes the provisions of Section 22 or Section 23 or Section 24 or Section 27, he shall be punishable with fine which may extend

to rupees one lakh, and where the offence is a continuing one, with a further fine which may extend to one thousand rupees for every day, after the first, during which such contravention continues.

47. Penalty for contravention of Section 25.

If any person contravenes, without any reasonable excuse, the provisions of Section 25 he shall be punishable with fine which may extend to two thousand rupees, and where the offence is a continuing one, with a further fine which may extend to two hundred rupees for every day, after the first, during which such contravention continues.

48. Penalty for failure to register agreements.

(1) If any person fails, without any reasonable excuse, to register an agreement which is subject to registration under this Act, he shall be punishable with fine which may extend to five thousand rupees, and where the offence is a continuing one, with a further fine which may extend to five hundred rupees for every day, after the first, during which such failure continues

(2) If any undertaking, to which Part A of Chapter III applies, fails, without any reasonable excuse, to make an application under Section 26, to register itself as an undertaking to which that Part applies, then,—

(a) the undertaking, where it is a company, or

(b) every partner of the undertaking, where it is a firm, or

(c) where it is not a company or a firm, every person who owns or controls the undertaking, shall be punishable with fine which may extend to one thousand rupees, and where the offence is a continuing one with a further fine which may extend to fifty rupees for every day, after the first, during which such failure continues.

49. Penalty for offences in relation to furnishing of information.

(1) If any person fails, without any reasonable excuse, to furnish any information required under Section 43 or to comply with any notice duly given to him under Section 42, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and where the offence is a continuing one, with a further fine which may extend to one hundred rupees for every day, after the first, during which such failure continues.

(2) If any person, who furnishes or is required to furnish any particulars, documents or any information—

(a) makes any statement or furnishes any document which he knows or has reason to believe to be false in any material particular; or

(b) omits to state any material fact knowing it to be material; or

(c) wilfully alters, suppresses or destroys any document which is required to be furnished as aforesaid, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

50. Penalty for offences in relation to orders under the Act.

If any person contravenes any order made under Section 13 or section 31 or Section 37, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and where the offence is a continuing one, with a further fine which may extend to five hundred rupees for every day, after the first, during which such contravention continues.

51. Penalty for offences in relation to re-sale price maintenance.

If any person contravenes the provisions of Section 39 or Section 40, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

52. Penalty for wrongful disclosure of information.

If any person discloses an information in contravention of Section 60, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

53. Offences by companies.

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section —

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

CHAPTER IX

Miscellaneous

54. Power of Central Government to impose conditions, limitations and restrictions on approvals etc., given under the Act.

(1) The Central Government may, while —

(a) according any approval, sanction, permission, confirmation or recognition, or

(b) giving any direction or issuing any order, or

(c) granting any exemption, under this Act in relation to any matter, impose such conditions, limitations or restrictions as it may think fit.

(2) The Central Government shall have the power to modify any scheme of finance submitted to it under this Act in such manner as it thinks fit.

(3) If any condition, limitation or restriction imposed by the Central Government under sub-section (1) or any term of a scheme of finance, as modified under sub-section (2), is contravened, the Central Government may rescind or withdraw the approval, sanction, permission, confirmation, recognition, direction, order or exemption made or granted by it.

55. Appeals.

Any person aggrieved by any order made by the Central Government under Chapter III or Chapter IV, or, as the case may be, or the Commission under Section 13 or Section 37, may within sixty days from the date of the order, prefer an appeal to the Supreme Court on one or more of the grounds specified in Section 100 of the Code of Civil Procedure, 1908.

56. Jurisdiction of courts to try offences.

No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

57. Cognizance of offences.

No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in Section 21 of the Indian Penal Code.

58. Magistrates' power to impose enhanced penalties.

Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate or any Magistrate of the first class to pass any sentence authorised by this Act in excess of his powers under Section 32 of the said Code.

59. Protection regarding statements made to the Commission.

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statements:

Provided that the statement—

(a) is made in respect to a question which he is required by the Commission to answer; and

(b) is relevant to the subject-matter of the inquiry.

60. Restriction on disclosure of information.

(1) No information relating to any undertaking, being an information which has been obtained by or on behalf of the Commission for the purposes of this Act, shall, without the previous permission in writing of the owner for the time being of the undertaking, be disclosed otherwise than in compliance with or for the purposes of this Act.

(2) Nothing contained in sub-section (1) shall apply to a disclosure of an information made for the purpose of any legal proceeding pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report relating to any such proceeding.

61. Power of the Central Government to require the Commission to submit a report.

The Central Government may at any time require the Commission to submit to it a report on the general effect on the public interest of such trade practices as, in the opinion of that Government, either constitute or contribute to monopolistic or restrictive trade practices or concentration of economic power to the common detriment.

62. Reports of the Commission to be placed before Parliament.

The Central Government shall cause to be laid before both Houses of Parliament an annual report, and every report which may be submitted to it by the Commission from time to time, pertaining to the execution of the provision of this Act.

63. Members, etc., to be public servants.

Every member of the Commission, the Director and the Registrar, and every member of the staff of the Commission, and of the Director and the Registrar, shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of Section 21 of the Indian Penal Code.

64. Protection of action taken in good faith.

(1) No suit, prosecution or other legal proceedings shall lie against the Commission or any member, officer or servants of the Commission, the Director, the Registrar or any member of the staff of the Director or the Registrar in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be maintainable in any civil court against the Central Government or any officer or employee of that Government for any damage caused by anything done under, or in

pursuance of any provisions of, this Act.

65. Inspection of, and extracts from, the register.

(1) The register, other than the special section, shall be open to public inspection during such hours and subject to the payment of such fees, not exceeding rupees twenty-five, as may be prescribed.

(2) Any person may upon the payment of such fee, not exceeding rupee one, for every one hundred words, as may be prescribed, require the Registrar to supply to him a copy of, or extract from, any particulars entered or filed in the register, other than the special section, certified by the Registrar to be a true copy or extract.

(3) A copy of, or extract from, any document entered or filed in the register certified under the hand of the Registrar or any officer authorised to act in this behalf shall, in all legal proceedings, be admissible in evidence as of equal validity with the original.

66. Power to make regulations.

(1) The Commission may make regulations for the efficient performance of its functions under this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such regulations may provide for all or any of the following matters, namely:—

(a) the conditions of service, as approved by the Central Government, of persons appointed by the Commission;

(b) the issue of the processes to Government and to other persons and the manner in which they may be served;

(c) the manner in which the special section of the register shall be maintained and the particulars to be entered or filed therein;

(d) the duties and functions of the Registrar and the Director;

(e) the payment of costs of any proceedings before the Commission by the parties concerned and the general procedure and conduct of the business of the Commission;

(f) any other matter for which regulations are required to be, or may be, made under this Act.

67. Power to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which notices may be given or applications may be made to it under this Act and the fees payable therefor;

(b) the particulars to be furnished under this Act and the form and manner in which they may be furnished;

(c) the conditions of service of members of the Commission and the Registrar;

(d) the places and the manner in which the register shall be maintained by the Registrar and the particulars to be entered therein;

(e) the fees payable for inspection of the register and for obtaining certified copies of particulars from the register;

(f) the travelling and other expenses payable to persons summoned by the Commission to appear before it;

(g) the criterion to be adopted for determining the circumstances in which conditions or matters enumerated in Sections 21, 23 and 25 shall be considered to exist;

(h) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE ASSAM REORGANISATION (MEGHALAYA) ACT, 1969 (ACT 55 OF 1969)

CONTENTS

PART I

Preliminary

1. Short title and commencement.
2. Definitions.

PART II

Formation of The Autonomous State of Meghalaya

3. Formation of Meghalaya.
4. Executive power of Meghalaya.
5. Extent of executive power of Meghalaya.
6. Council of Ministers.
7. Other provisions as to Ministers.
8. Advocate-General for Meghalaya.
9. Conduct of business.
10. Duties of Chief Minister as respects the furnishing of information to Governor etc.

PART III

The Legislature General

11. Constitution of the Legislature of Meghalaya.
12. Delimitation of constituencies.
13. Power of Election Commission to maintain delimitation orders up-to-date.
14. Electors and electoral rolls.
15. Right to Vote.

16. Qualification for membership.
17. Election to the Legislative Assembly.
18. Duration of Legislative Assembly.
19. Sessions of Legislative Assembly, prorogation and dissolution.
20. Right of Governor to address, and send messages to Legislative Assembly.
21. Special address by the Governor.
22. Rights of Ministers as respects Legislative Assembly.

Officers of the Legislative Assembly.

23. Speaker and Deputy Speaker of Legislative Assembly.
24. Speaker and Deputy Speaker not to preside while a resolution for his removal from office is under consideration.
25. Secretariat of Legislative Assembly.

Conduct of Business

26. Oath or affirmation by members.
27. Voting in Assembly, power of Assembly to act notwithstanding vacancies and quorum.

Disqualifications of Members

28. Vacation of seats.
29. Disqualifications for membership.
30. Penalty for sitting and voting before making an oath or affirmation or when not qualified or when disqualified.
31. Powers, privileges, etc., of members.
32. Salaries and allowances of members.

Legislative Powers and Procedure

33. Extent of Legislative power.
34. Exemption from taxation of properties of the Union and the State of Assam and of certain vehicles registered in Assam or Meghalaya.
35. Inconsistency between laws made by Parliament and laws made by the Legislature of Meghalaya.
36. Inconsistency between laws made by the Legislature of the State of Assam and laws made by the Legislature of Meghalaya.
37. Special provisions as to financial Bills.
38. Procedure as to lapsing of Bills.
39. Assent to Bills.
40. Bills reserved for consideration.
41. Requirements as to sanction and recommendation to be regarded as matters of procedure only.

Procedure in Financial Matters

42. Annual Financial Statement.
43. Procedure in Legislative Assembly with respect to estimates.
44. Appropriation Bills.
45. Supplementary, additional or excess grants.
46. Votes on Account and exceptional grant.

Procedure Generally

47. Rules of procedure.
48. Restrictions on discussion in the Legislative Assembly.
49. Courts not to enquire into the proceedings of Legislative Assembly.

Legislative Power of the Governor

- 50 Power of Governor to promulgate ordinances during recess of Legislative Assembly.

PART IV

Financial Provisions

51. Consolidated Fund.
52. Contingency Fund.
53. Custody of suitors' deposits and other moneys received by public servants and Courts
54. Custody, etc., of Consolidated Fund, Contingency Fund and moneys credited to the public accounts
55. Certain taxes levied by Assam to be appropriated by Meghalaya
56. Distribution of revenues
57. Authorisation of expenditure pending its sanction by Legislative Assembly.

PART V

Assets and Liabilities

- 58 Apportionment of assets and liabilities.

PART VI

Administrative Relations

59. Obligation of Meghalaya, the State of Assam and the Union.
60. Control over the autonomous State in certain cases.
61. Entrustment of functions

PART VII

Transitional Provisions

62. Provisions as to Provisional Legislative Assembly.

PART VIII

Miscellaneous Provisions

63. Special committee for development of Shillong
64. Provisions as to continuance of Courts
65. Provisions relating to services.
66. Continuance of existing laws and their adaptations.
67. Autonomous State to be a State for certain purposes of the Constitution.
68. Power of Governments of Assam and Meghalaya to carry on trade, etc in Meghalaya.
69. Power to suspend provisions of this Act in case of failure of constitutional machinery.
70. Construction of references to "State" and "State Government" in other laws in relation to Meghalaya.
71. Power to construe laws
72. Effect of provisions of Act inconsistent with other Laws
73. Power to remove difficulties.
74. Amendment of the Sixth Schedule.
75. Amendment of Act 2 of 1934.
76. Amendment of Act 37 of 1956.
77. Power to make rules

THE FIRST SCHEDULE

THE SECOND SCHEDULE

THE THIRD SCHEDULE

THE FOURTH SCHEDULE

THE ASSAM REORGANISATION (MEGHALAYA) ACT, 1969

(Act 55 of 1969)*

[29th December, 1969]

An Act to provide for the formation within the State of Assam of an autonomous State to be known as Meghalaya and for matters connected therewith.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows —

PART I

Preliminary

1. Short title and commencement.

(1) This Act may be called the Assam Reorganisation (Meghalaya) Act, 1969

(2) It shall come into force on such date† as the Central Government may, by notification in the Official Gazette, appoint.

Provided that different dates may be appointed for different provisions of this Act.

2. Definitions.

In this Act unless the context otherwise requires,—

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint for the formation of the autonomous State;

(b) "article" means an article of the Constitution;

(c) "Autonomous State" means the autonomous State of Meghalaya formed under Section 3,

(d) "constituency" means a territorial constituency provided by order made under Section 12 for the purpose of election to the Legislative Assembly;

(e) "Election Commission" means the Election Commission appointed by the President under Article 324;

(f) "Governor" means the Governor of Assam exercising his functions as Governor in relation to Meghalaya by virtue of this Act;

(g) "law" includes any enactment, Ordinance, regulation, order, bye-law,

*. Received the assent of the President on 29-12-1969. Act published in Gazette of India, 30-12-1969, Pt. II, S. 1, Ext. p 465

†. The date appointed for Sections 2 and 3 is 12-1-1970 — See Gazette of India, 12-1-70, Pt II, S. 3 (1), Ext. p. 17.

rule, scheme, notification or other instrument, having immediately before the appointed day, the force of law in the whole or in any part of the autonomous State;

(h) "Legislative Assembly" means the Legislative Assembly of Meghalaya.

(i) "Meghalaya" means the autonomous State referred to in Section 3;

(j) "member" means a member of the Legislative Assembly;

(k) "Official Gazette" means the Official Gazette of Meghalaya or the Gazette of India; and

(l) "prescribed" means prescribed by rules made under this Act;

PART II

Formation of the Autonomous State of Meghalaya

3. Formation of Meghalaya.

(1) On and from the appointed day, there shall be formed within the State of Assam an autonomous State to be known as Meghalaya which shall, subject to the provisions of sub-section (2), comprise the following tribal areas, namely :—

(i) The United Khasi-Jaintia Hills District as described in sub-paragraph (2) of paragraph 20 of the Sixth Schedule to the Constitution (exclusive of the proviso thereto) but excluding the areas transferred to the Mikir Hills autonomous district by the notification of the Government of Assam No. TAD/R/31/50/149 dated the 13th April, 1951, and

(ii) the Garo Hills District specified in Part A of the table appended to paragraph 20 aforesaid.

(2) If, before such date as the Central Government may, by notification in the Official Gazette, fix for the purpose not being a date later than the appointed day, the District Council for the autonomous district of the North Cachar Hills or the Mikir Hills or both, as the case may be, has or have by resolution passed by a majority of not less than two thirds of the members thereof, expressed a desire that the said autonomous district or districts shall form part of Meghalaya, the President may, by order, make a declaration to that effect and accordingly, on and from the appointed day, the North Cachar Hills District or the Mikir Hills District or both, as the case may be, shall also form part of Meghalaya.

4. Executive power of Meghalaya.

(1) The executive power of Meghalaya shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Act.

(2) Nothing in this section shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) prevent Parliament or the Legislature of the State of Assam or Meghalaya from conferring by law functions on any authority subordinate to the Governor.

5. Extent of executive power of Meghalaya.

(1) Subject to the provisions of this Act, the executive power of Meghalaya shall extend to the matters with respect to which the Legislature of Meghalaya has power to make laws.

Provided that in any matter with respect to which the Legislature of Meghalaya, the Legislature of the State of Assam and Parliament have power to make laws, the executive power of Meghalaya shall be subject to, and limited by, the executive power expressly conferred by this Act or by any law made by Parliament upon the Union or the State of Assam or the authorities thereof or, as the case may be, by the Legislature of the State of Assam upon the State of Assam or authorities thereof.

(2) On and from the appointed day, the executive power of the State of Assam shall not extend, in relation to Meghalaya, to the matters with respect to which the Legislature of Meghalaya has exclusive power to make laws under this Act.

(3) For the removal of doubts, it is hereby declared that, save as otherwise provided in this Act the executive power of the State of Assam shall, in relation to Meghalaya, continue to extend to the matters with respect to which the Legislature of Meghalaya has no power to make laws.

6. Council of Ministers.

(1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions in relation to Meghalaya.

(2) The question whether any, and if so, what, advice was tendered by Ministers to the Governor shall not be inquired into in any Court.

7. Other provisions as to Ministers.

(1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the form set out for this purpose in the First Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislative Assembly shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of Meghalaya may from time to time by law determine and, until the Legislature so determines, shall be determined by the Governor.

the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly and inform the Assembly of the causes of its summonings.

(2) Provision shall be made by the rules regulating the procedure of the Legislative Assembly for the allotment of time for discussion of the matters referred to in such address.

22. Rights of Ministers as respects Legislative Assembly.

Every Minister and the Advocate-General for Meghalaya shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislative Assembly of which he may be named a member, but shall not, by virtue of this section, be entitled to vote.

Officers of the Legislative Assembly

23. Speaker and Deputy Speaker of Legislative Assembly.

(1) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(2) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may at any time by writing under his hand address, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the Legislative Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of Clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that whenever the Legislative Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Legislative Assembly as the Governor may appoint for the purpose.

(4) During the absence of the Speaker from any sitting of the Legislative Assembly, the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Legislative Assembly, or, if no such person is present, such

other person as may be determined by the Legislative Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislature of Meghalaya by law and, until provision in that behalf is so made, such salaries and allowances as the Governor may, by order, determine.

24. Speaker and Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

(1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or, while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of subsec. (4) of S. 23 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Legislative Assembly and shall, notwithstanding anything in Section 27, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

25. Secretariat of Legislative Assembly.

(1) The Legislative Assembly shall have a separate secretarial staff.

(2) The Legislature of Meghalaya may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Legislative Assembly.

(3) Until provision is made by the Legislature of Meghalaya under sub-section (2), the Governor may, after consultation with the Speaker of the Legislative Assembly, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Legislative Assembly, and any rules so made shall have effect subject to the provisions of any law made under the said sub-section.

Conduct of business

26. Oath or affirmation by members.

Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the First Schedule.

27. Voting in Assembly. power of Assembly to act notwithstanding vacancies and quorum.

(1) Save as otherwise provided in this Act, all questions at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

(2) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(3) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(4) Until the Legislature of Meghalaya by law otherwise provides, the quorum to constitute a meeting of the Legislative Assembly shall be ten members.

(5) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker or person acting as such either to adjourn the Assembly or suspend the meeting until there is a quorum.

Disqualifications of members

28. Vacation of seats.

(1) No person shall be a member of Parliament or of the Legislative Assembly of the State of Assam and also of the Legislative Assembly of Meghalaya, and if a person is chosen a member of Parliament or of the Legislative Assembly of Assam and also of the Legislative Assembly of Meghalaya, then at the expiration of such period, as may be specified in rules made by the President, that person's seat in Parliament or, as the case may be, in the Legislative Assembly of Assam shall become vacant unless he has previously resigned his seat in the Legislative Assembly of Meghalaya.

(2) If a member of the Legislative Assembly—

(a) becomes subject to any of the disqualifications mentioned in Sec. 29, or

(b) resigns his seat by writing under his hand addressed to the Speaker, his seat shall thereupon become vacant.

(3) If for a period of sixty days a member of the Legislative Assembly is, without permission of the Legislative Assembly, absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Legislative Assembly is prorogued or is adjourned for more than four consecutive days.

29. Disqualifications for membership.

(1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly.—

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of Meghalaya other than an office declared by the Legislature of Meghalaya by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent Court;

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State or is under any acknowledgment of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any of the provisions of Chapter III of Part II of the Representation of the People Act, 1951, as applied to and in relation to the Legislative Assembly by section 17.

(2) For the purposes of this section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of Meghalaya by reason only, that he is a Minister either for the Union or for such State or for Meghalaya.

(3) If any question arises as to whether a member has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the Governor and his decision shall be final.

(4) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.

30. Penalty for sitting and voting before making an oath or affirmation or when not qualified or when disqualified.

If a person sits or votes as a member of the Legislative Assembly before he has complied with the requirements of Section 26, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of Meghalaya, he shall be liable in respect of each day on which he so sits or votes, to a penalty of five hundred rupees to be recovered as a debt due to Meghalaya.

31. Powers, privileges, etc., of members.

(1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislature of Meghalaya, there shall be freedom of speech in the Legislative Assembly of Meghalaya.

(2) No member of the Legislative Assembly of Meghalaya shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Assembly or any committee thereof, and no person shall be so liable in respect of the publication by or under

the authority of the Assembly of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as may from time to time be defined by the Legislature of Meghalaya by law, and until so defined, shall be those for the time being enjoyed by the House of the People and its members and committees.

4 The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, or otherwise to take part in the proceedings of, the Legislative Assembly or any committee thereof as they apply in relation to members of that Assembly

32. Salaries and allowances of members.

Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of Meghalaya by law and, until provision in that respect is so made, such salaries and allowances as the Governor may, by order, determine.

Legislative powers and procedure

33. Extent of Legislative Power.

(1) Subject to the provisions of this Act, the Legislature of Meghalaya has exclusive power to make laws for Meghalaya or any part thereof with respect to any of the matters enumerated in Part A or Part B of the Second Schedule :

Provided that the exclusive power of the Legislature of Meghalaya to make laws in so far as it relates to that part of the area comprised within the municipality of Shillong as immediately before the commencement of the Constitution formed part of the Khasi State of Myllem, shall extend only to matters with respect to which the District Council having authority in that area has power to make laws (in whatever form it may be) immediately before the appointed day in exercise of any of the powers conferred by the Sixth Schedule to the Constitution

(2) Subject to the provisions of this Act, the Legislature of Meghalaya and the Legislature of the State of Assam also shall have power to make laws for Meghalaya or any part thereof with respect to any of the matters enumerated in Part C of the Second Schedule :

Provided that the power of the Legislature of Meghalaya to make any such law shall not extend to the area comprised within the municipality of Shillong which immediately before commencement of the Constitution formed part of the Khasi State of Myllem.

(3) For the removal of doubts it is hereby declared that nothing in sub-section (1) or sub-section (2) shall derogate from the powers conferred by the Constitution—

(a) on Parliament to make laws for the whole or any part of the State of Assam, including Meghalaya, with respect to any of the matters enumerated in the Second Schedule; or

(b) on the Legislature of the State of Assam to make laws for the whole or any part of Assam, including Meghalaya, with respect to any of the matters enumerated in List II or List III in the Seventh Schedule to the Constitution, except in so far as any of the matters aforesaid falls within sub-section (1).

34. Exemption from taxation of properties of the Union and the State of Assam and of certain vehicles registered in Assam or Meghalaya.

(1) The property of the Union shall, save in so far as Parliament may, by law, otherwise provide, be exempt from all taxes imposed by Meghalaya or by any authority within Meghalaya.

(2) Nothing in sub-section (1) shall, until Parliament by law otherwise provides, prevent any authority within Meghalaya from levying any tax on any property of the Union to which such property was immediately before the commencement of this Act liable or treated as liable so long as that tax continues to be levied in Meghalaya.

(3) The property of the State of Assam shall, so long as the property of Meghalaya in the rest of Assam is exempt from taxes imposed by the Government of Assam or by any authority within the State of Assam, be exempt from all taxes imposed by Meghalaya or by any authority within Meghalaya.

(4) No vehicle registered at any place in the State of Assam, not being a place in Meghalaya, and transiting through Meghalaya shall be liable to any tax under any law enacted by the Legislature of Meghalaya so long as any vehicle registered at any place in Meghalaya and transiting through the territory of Assam (not comprised in Meghalaya) is exempt from payment of any tax under any law enacted by the Legislature of the State of Assam

35. Inconsistency between laws made by Parliament and laws made by the Legislature of Meghalaya.

(1) If any provision of a law made by the Legislature of Meghalaya is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law with respect to one of the matters enumerated in the Concurrent List in the Seventh Schedule to the Constitution, then, subject to the provisions of sub-section (2), the law made by Parliament, whether passed before or after the law made by the Legislature of Meghalaya, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of Meghalaya shall to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of Meghalaya with respect to one of the matters enumerated in the Concurrent List in the Seventh Schedule to the Constitution, which the Legislature of Meghalaya is competent to enact under this Act contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of Meghalaya shall, if it has been reserved for the consideration of the President and has received his assent, prevail in Meghalaya:

Provided that nothing in this subsection shall prevent Parliament from enacting at any time any law with respect to the same matter, including a law adding to, amending, varying or repealing the law so made by the Legislature of Meghalaya.

36. Inconsistency between laws made by the Legislature of the State of Assam and laws made by the Legislature of Meghalaya.

Where a law made by the Legislature of Meghalaya with respect to one of the matters enumerated in Part C of the Second Schedule contains any provision repugnant to the provision of an earlier law made by the Legislature of the State of Assam which that Legislature is competent to enact, or to any provision of any existing law with respect to that matter, then, the law so made by the Legislature of Meghalaya shall, to the extent of the repugnancy, be void unless the law has received assent under Sec. 39 after the Governor has obtained the advice of the Chief Minister of Assam:

Provided that nothing contained in this section shall prevent the Legislature of the State of Assam from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of Meghalaya.

Explanation 1 — In this section and in Sections 35 and 59, "existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the appointed day by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation.

Explanation 2. — In this section and in Sections 39 and 50, the reference to the advice of the Chief Minister of Assam shall, while a Proclamation issued in relation to the State of Assam under Clause (1) of Article 356 of the Constitution is in operation, be construed as a reference to the instructions from the President.

37. Special provisions as to financial Bills.

(1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendations of the Governor if such Bill or amendment makes provi-

sions dealing with any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by Meghalaya, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by Meghalaya;

(c) the custody of the Consolidated Fund or the Contingency Fund of Meghalaya, the payment of moneys into, or withdrawal of moneys from, any such Fund;

(d) the appropriation of moneys out of the Consolidated Fund of Meghalaya;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of Meghalaya, or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the Consolidated Fund of Meghalaya or the public account of Meghalaya or the custody or issue of such money:

Provided that no recommendation shall be required under this subsection for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters specified in sub-section (1) by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill, which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of Meghalaya, shall not be passed by the Legislative Assembly unless the Governor has recommended to the Assembly the consideration of the Bill.

38. Procedure as to lapsing of Bills.

A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly, but shall lapse on a dissolution thereof.

39. Assent to Bills.

When a Bill has been passed by the Legislative Assembly, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the Legislative Assembly will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may re-

commend in his message and when a Bill is so returned, the Legislative Assembly shall reconsider the Bill accordingly, and if the Bill is passed again by the Assembly with or without amendment and presented to the Governor for assent, the Governor shall not—

(a) give assent in the case of a Bill containing provisions of the nature referred to in Section 36 except after obtaining the advice of the Chief Minister of Assam;

(b) withhold assent in the case of any other Bill.

Explanation.— For the purposes of this section and Section 40, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of Section 37 or any matter incidental to any of those matters and there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Provided that a Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

40. Bills reserved for consideration.

When a Bill is reserved by the Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom,

Provided that where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the Legislative Assembly together with such a message as is referred to in Section 39, and when a Bill is so returned, the Legislative Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message, and if it is again passed by the Legislative Assembly with or without amendment, it shall be presented again to the President for his consideration.

41. Requirements as to sanction and recommendation to be regarded as matters of procedure only.

No Act of the Legislature of Meghalaya and no provision in any such Act shall be invalid by reason only that some recommendation or previous sanction required by the Constitution or this Act was not given, if assent to that Act was given—

(a) where the recommendation required was that of the Governor, either by the Governor or by the President;

(b) where the recommendation or previous sanction required was that of the President, by the President.

Procedure in financial matters

42. Annual Financial Statement.

(1) The Governor shall in respect of every financial year cause to be laid

before the Legislative Assembly a statement of the estimated receipts and expenditure of Meghalaya for that year, hereinafter referred to as "the annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of Meghalaya; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of Meghalaya, and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged upon the Consolidated Fund of Meghalaya—

(a) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(b) debt charges for which the autonomous State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(c) any sums required to satisfy any judgment, decree or award of any Court or arbitral tribunal; and

(d) any other expenditure declared by the Constitution or by the Legislature of Meghalaya to be so charged.

43. Procedure in Legislative Assembly with respect to estimates.

(1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of Meghalaya shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

44. Appropriation Bills.

(1) As soon as may be after the grants under Section 43 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of Meghalaya of all moneys required to meet—

(a) the grants so made by the Legislative Assembly; and

(b) the expenditure charged on the Consolidated Fund of Meghalaya but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of Meghalaya, and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the provisions of Sections 45 and 46, no money shall be withdrawn from the Consolidated Fund of Meghalaya except under appropriation made by law passed in accordance with the provisions of this section.

45. Supplementary, additional or excess grants.

(1) The Governor shall,—

(a) if the amount authorised by any law made in accordance with the provisions of Section 44 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the Legislative Assembly another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly a demand for such excess, as the case may be.

(2) The provisions of Sections 42, 43 and 44 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of Meghalaya to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of Meghalaya to meet such expenditure or grant.

46. Votes on Account and exceptional grant.

(1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in Section 43 for the voting of such grant and the passing of the law in accordance with the provisions of Section 44 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources

of the autonomous State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year; and the Legislature of Meghalaya shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of Meghalaya for the purpose for which the said grants are made.

(2) The provisions of Sections 43 and 44 shall have effect in relation to the making of any grant under sub-section (1) and to any law to be made under that sub-section, as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of Meghalaya to meet such expenditure.

Procedure generally

47. Rules of procedure.

(1) The Legislative Assembly may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business including the language or languages to be used in the Legislative Assembly.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assembly of the State of Assam in force immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Governor.

48. Restrictions on discussion in the Legislative Assembly.

No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court, or of a High Court, in the discharge of his duties.

49. Courts not to enquire into the proceedings of Legislative Assembly.

(1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business or for maintaining order, in the Legislative Assembly shall be subject to the jurisdiction of any Court in respect of the exercise by him of those powers.

Legislative power of the Governor

50. Power of Governor to promulgate Ordinances during recess of Legislative Assembly.

(1) If at any time, except when the Legislative Assembly is in session, the

Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinance as the circumstances appear to him to require :

Provided that the Governor shall not without instructions from the President promulgate any such Ordinance, if—

(a) a Bill containing the same provisions would under the Constitution or this Act have required the previous sanction of the President for the introduction thereof into the Legislative Assembly of Meghalaya; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(c) an Act of the Legislature of Meghalaya containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President :

Provided further that the Governor shall not, except on the advice of the Chief Minister of Assam, promulgate any such Ordinance if with respect to a Bill containing the same provisions he would have deemed it necessary under this Act to obtain the advice of the Chief Minister before assenting thereto.

(2) An Ordinance promulgated under this section shall have the same force and effect as an Act of the Legislative Assembly assented to by the Governor, but every such Ordinance—

(a) shall be laid before the Legislative Assembly and shall cease to operate at the expiration of six weeks from the reassembly of the Legislative Assembly or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly, upon the passing of the resolution; and

(b) may be withdrawn at any time by the Governor.

(3) If and so far as an Ordinance under this section makes any provision which would not be valid if enacted in an Act of the Legislature of Meghalaya assented to by the Governor, it shall be void :

Provided that—

(a) for the purposes of Section 35 relating to the effect of an Act of the Legislature of Meghalaya which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List in the Seventh Schedule to the Constitution, an Ordinance promulgated under this section in pursuance of instructions from the President shall be deemed to be an Act of the Legislature which has been reserved for the consideration of the President and assented to by him;

(b) for the purposes of Section 36 relating to the effect of an Act of the Legislature of Meghalaya which is repugnant to an Act of the Legislature of

the State of Assam or an existing law with respect to a matter enumerated in Part C of the Second Schedule, an Ordinance promulgated under this section on the advice of the Chief Minister of Assam shall be deemed to be an Act of the Legislature which has been assented to on the advice of the Chief Minister

PART IV

Financial provisions

51. Consolidated Fund.

(1) Subject to the provisions of Section 52, all revenue received by the Government of Meghalaya, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of Meghalaya".

(2) All other public moneys received by or on behalf of the Government of Meghalaya shall be credited to the public account of Meghalaya.

(3) No moneys out of the Consolidated Fund of Meghalaya shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Act

52. Contingency Fund.

The Legislature of Meghalaya may, by law, establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of Meghalaya" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislature of Meghalaya by law under Section 45 or Section 46

53. Custody of suitors' deposits and other moneys received by public servants and Courts.

All moneys received by or deposited with—

(a) any officer employed in connection with the affairs of Meghalaya in his capacity as such, other than revenues or public moneys raised or received by the Government of Meghalaya, or

(b) any Court within Meghalaya to the credit of any cause, matter, account or persons shall be paid into the public account of Meghalaya.

54. Custody, etc., of Consolidated Fund, Contingency Fund and moneys credited to the public accounts.

The custody of the Consolidated Fund and the Contingency Fund of Meghalaya, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of Meghalaya their payment into the public account

of Meghalaya and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of Meghalaya, and, until provision in that behalf is so made, shall be regulated by rules made by the Governor.

55. Certain taxes levied by Assam to be appropriated by Meghalaya.

(1) Notwithstanding anything contained in this Act, any tax on the consumption or sale of electricity relating to Entry 53 in the State List in the Seventh Schedule to the Constitution, and any tax on the sale or purchase of goods relating to Entry 54 in the said List levied by the Government of Assam shall be collected within Meghalaya but not including any area comprised within the municipality of Shillong by the Government of Meghalaya, and the proceeds in any financial year of any such tax leviable within Meghalaya shall not form part of the Consolidated Fund of Assam but shall form part of the Consolidated Fund of Meghalaya.

(2) Where a tax relating to Entry 54 in the State List aforesaid levied by the Government of Assam is collected by that Government at the first point of sale or purchase of goods, such portion of the tax on so collected as may be agreed upon by the Government of Assam and Meghalaya or in default of such agreement, as the Central Government may determine, shall be payable to Meghalaya.

(3) The laws with respect to the taxes referred to in sub-section (1) shall have effect subject to such exceptions and modifications as the Central Government may, by order, specify for the purpose of giving effect to the provisions of that sub-section.

56. Distribution of revenues.

(1) The grants-in-aid under Cl. (1) of Article 275 and the share of the taxes on income, the distributable Union duties of excise, the additional duties of excise on goods of special importance and estate duty payable to the State of Assam under the Constitution (Distribution of Revenues) Order, 1969, the Union Duties of Excise (Distribution) Act, 1962, the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and the Estate Duty (Distribution) Act, 1962, shall be construed, as from the appointed day, as payable to the State of Assam and the autonomous State of Meghalaya in such proportion as the President may, by order, determine.

(2) Every order made by the President under sub-section (1) shall be laid before Parliament as soon as may be after it is made.

57. Authorisation of expenditure pending its sanction by Legislative Assembly.

The Governor may, at any time before the appointed day, authorise such

expenditure from the Consolidated Fund of Meghalaya as he deems necessary for a period of not more than six months beginning with the appointed day pending the sanction of that expenditure by the Legislative Assembly:

Provided that the Governor may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of Meghalaya for any period not extending beyond the said period of six months.

PART V

Assets and Liabilities

58. Apportionment of assets and liabilities.

The assets and liabilities of the State of Assam immediately before the appointed day shall be apportioned between that State and Meghalaya in accordance with the provisions contained in the Third Schedule.

PART VI

Administrative Relations

59. Obligation of Meghalaya, the State of Assam and the Union.

The executive power of Meghalaya shall be so exercised as to ensure compliance with the laws made by Parliament, the Legislature of the State of Assam and any existing laws which apply in Meghalaya, and the executive power of the Union and of the State of Assam shall extend to the giving of such directions to Meghalaya as may appear to the Government of India or the Government of Assam, as the case may be, to be necessary for that purpose.

60. Control over the autonomous State in certain cases.

The executive power of Meghalaya shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union or the Government of Assam, as the case may be, and the executive power of the Union and the State of Assam shall extend to the giving of such directions to Meghalaya as may appear to the Government of India or the Government of Assam, as the case may be, to be necessary for that purpose.

61. Entrustment of functions.

Notwithstanding anything in this Act,—

(a) the Government of Assam may, with the consent of the Government of Meghalaya, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State of Assam extends;

(b) the Government of Meghalaya may, with the consent of the Government of Assam, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of Meghalaya extends.

PART VII

Transitional provisions

62. Provisions as to Provisional Legislative Assembly.

(1) Until the Legislative Assembly of Meghalaya has been duly constituted and summoned to meet for the first session under the provisions of Part III, there shall be a Provisional Legislative Assembly which shall consist of not less than thirty-five and not more than fifty-five persons as the Central Government may, after consultation with the Election Commission, by order, determine, and such persons shall be elected in the manner specified in subsection (2).

(2) Subject to the provisions of subsection (1), the members of the Provisional Legislative Assembly shall be elected in the following manner, namely:—

(a) there shall be an electoral college for each autonomous district within Meghalaya which shall consist of the elected members of the District Council thereof, and each electoral college shall elect such number of persons to the Provisional Legislative Assembly as the President may, after consultation with the Election Commission, by order, determine,

(b) the election of members to the Provisional Legislative Assembly shall be in accordance with the system of proportional representation by means of the single transferable vote and shall be subject to such rules as the Central Government may, after consultation with the Election Commission, make in this behalf.

(3) The Central Government may nominate to the Provisional Legislative Assembly not more than three persons, not being persons in the service of the Government, to represent any minority communities in Meghalaya which, in its opinion, need representation in the Assembly.

(4) No person shall be qualified to be chosen as a member of the Provisional Legislative Assembly unless he is a person whose name is for the time being entered in the electoral roll for so much of any constituency of the Legislative Assembly of Assam as is comprised within Meghalaya and is not less than twenty-five years of age.

(5) If owing to death, resignation or otherwise, the office of a member of the Provisional Legislative Assembly falls vacant, it may be filled up as soon as practicable under and in accordance with the foregoing provisions of this section.

(6) The term of office of the members of the Provisional Legislative Assembly shall expire immediately before the first meeting of the Legislative Assembly duly constituted under this Act.

(7) The election by the electoral college under this section shall not be called in question on the ground merely of the existence of a vacancy in the membership of any District Council forming part of the electoral college.

(8) The Provisional Legislative Assembly constituted under this section shall, for so long it is in existence, be deemed to be the Legislative Assembly duly constituted under this Act, and accordingly the provisions of Part III shall, so far as may be, apply in relation to the Provisional Legislative Assembly as they apply in relation to the Legislative Assembly.

Part VIII

Miscellaneous provisions

63. Special committee for development of Shillong.

The Central Government may, in consultation with the Governments of Assam and Meghalaya, by order, constitute a committee consisting of such number of persons as it may think fit for advising the two Governments on matters of common interest with respect to Shillong in the field of education and water supply in particular, and with respect to its development and administration in general

Explanation.— In this section, Shillong shall mean the areas comprised within the cantonment and municipality of Shillong and include such other areas adjoining the said cantonment or municipality as may be agreed upon by the Governments of Assam and Meghalaya in this behalf.

64. Provisions as to continuance of courts.

All Courts and tribunals and all authorities discharging lawful functions throughout Meghalaya or any part thereof of immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent authority, continue to exercise their respective functions.

65. Provisions relating to services.

(1) Every person who being a member of an All-India Service is for the time being borne on the Assam State Cadre of that Service or is otherwise serving in connection with the affairs of the State of Assam as a member of Class I service of that State may be required by the Government of that State to serve in connection with the affairs of Meghalaya for such period or periods as the Government of Assam may, by order, direct:

Provided that no such order shall be made—

(a) before the appointed day, except with the approval of the Central Government; and

(b) on or after the appointed day, except in accordance with such rules as may be made by the Central Government after consultation with the Governments of Assam and Meghalaya.

(2) Subject to any general or special order which the Central Government may make in this behalf, the control over any such person as is referred to in subsection (1) shall, for so long as he is required to serve in connection

with the affairs of Meghalaya, be vested in the Government of Meghalaya

(3) Such persons serving in connection with the affairs of the State of Assam immediately before the appointed day, not being a person referred to in sub-section (1), as may be determined by agreement between the Government of Assam and the Government of Meghalaya or in default of agreement by the Central Government, may, notwithstanding anything in the terms of their appointments or their conditions of service, be required to serve in connection with the affairs of the autonomous State.

(4) All previous service rendered by a person referred to in sub-section (3) in connection with the affairs of the State of Assam shall be deemed to have been rendered in connection with the affairs of the autonomous State for the purposes of the rules regulating his conditions of service.

(5) Nothing in sub-sections (3) and (4) shall be deemed to affect the power of the Legislature of Meghalaya or the Governor to determine the conditions of service of persons serving in connection with the affairs of Meghalaya.

Provided that the conditions of service applicable immediately before the appointed day to any person referred to in sub-section (3) shall not be varied to his disadvantage except with the previous approval of the Government of Assam.

66. Continuance of existing laws and their adaptations.

(1) All laws in force immediately before the appointed day in the autonomous State shall continue to be in force therein until altered, repealed or amended by a competent legislature or other competent authority.

(2) For the purpose of facilitating the application in relation to the autonomous State of any law made before the appointed day, the appropriate Government may, within two years from that day, by order, make such adaptations or modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent legislature or other competent authority.

Explanation.— In this section, the expression “appropriate Government” means as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government, as respects any law relating to a matter in the Second Schedule, the Government of Meghalaya, and, as respects any other law, the Government of Assam.

67. Autonomous State to be a State for certain purposes of the Constitution.

Subject to the other provisions contained in this Act, reference to a State (by whatever form of words) in any of the following articles of the Constitu-

tion shall be construed as including a reference to the autonomous State, namely:—

Articles 12 to 15 (inclusive), 16 [except clause (3) thereof], 18, 19, 23, 25, 28 to 31 (inclusive), 31A, 34 to 51 (inclusive), 53, 59, 66, 73, 102, 110 (1) (f), 131, 138, 149, 150, 151, 161, 209, 210, 233, 234, 235, 237, 251, 252, 256 to 258A (inclusive), 261, 262, 263, 268, 269, 270, 272, 274 to 280 (inclusive), 282, 288, 289, 293, 296, 298 to 305 (inclusive), 308 to 311 (inclusive), 320, 323 (2), 324 to 329 (inclusive), 339 to 342 (inclusive), 345 to 348 (inclusive), 350, 350A, 350B, 353, 355 to 358 (inclusive), 360, 361, 364 to 367 (inclusive).

Explanation.— Reference in any of the articles above specified to the High Court or to the State Public Service Commission shall be construed as reference to the High Court of Assam or the Public Service Commission of the State of Assam, as the case may be.

68. Power of Governments of Assam and Meghalaya to carry on trade, etc., in Meghalaya.

(1) The executive power which the Government of Assam may exercise under Article 298 in Meghalaya for the carrying on of any trade or business and for the acquisition, holding and disposal of property and the making of contracts for any purpose shall, in so far as such trade or business or such purpose is not one with respect to which the Legislature of the State of Assam may make laws, be subject to legislation by the Legislature of Meghalaya.

(2) The executive power which the Government of Meghalaya may exercise under Article 298 in Meghalaya for the carrying on of any trade or business and for the acquisition, holding and disposal of property and the making of contracts for any purpose shall, in so far as such trade or business or such purpose is not one with respect to which the Legislature of Meghalaya may make laws, be subject also to legislation by the Legislature of the State of Assam.

69. Power to suspend provisions of this Act in case of failure of constitutional machinery.

Where a Proclamation is issued under Article 356 in respect of Meghalaya, the President may, by the same Proclamation or a subsequent Proclamation varying it, suspend also, in whole or in part, the operation of any of the provisions of this Act.

70. Construction of references to “State” and “State Government” in other laws in relation to Meghalaya.

Without prejudice to the provisions of Sections 66 and 71 the Central Government may, after consulting the Government of Assam, by notification in the Official Gazette, declare that any reference to a “State” in a Central Act specified in the notification shall, in its application to Meghalaya, be construed as a reference to the whole or any part

of Meghalaya and any reference to "State Government" in a Central Act specified in the notification shall in its application to Meghalaya be construed as a reference to the Central Government.

71. Power to construe laws.

Notwithstanding that no provision or insufficient provision has been made under Section 66 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the autonomous State, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

72. Effect of provisions of Act inconsistent with other laws.

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

73. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

(2) Every order made under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

74. Amendment of the Sixth Schedule.

The Sixth Schedule in the Constitution shall stand amended as specified in the Fourth Schedule.

75. Amendment of Act 2 of 1934.

In section 21A of the Reserve Bank of India Act, 1934, in sub-section (1), after the words "any State", the brackets and words "(including the autonomous State of Meghalaya)" shall be inserted.

76. Amendment of Act 37 of 1956.

In Section 16 of the States Reorganisation Act, 1956, in sub-section (1), for clause (d), the following clause shall be substituted, namely,—

"(d) in the case of the Eastern Zone,—

(i) the Chief Minister and another Minister of the autonomous State of Meghalaya to be nominated by the Governor of Assam and if there is no Council of Ministers therein, not more than two members from the autonomous State of Meghalaya to be nominated by the President; and

(ii) the person for the time being holding the office of the Advisor to the Governor of Assam for Tribal areas."

77. Power to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) Every rule made under this section shall be laid as soon as may be

after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

(See Sections 7, 16 and 26)

Forms Of Oaths Or Affirmations

I

Form of oath or affirmation to be made by a candidate for election to the Legislative Assembly—

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly of Meghalaya do swear in the name of God

solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

II

Form of oath or affirmation to be made by a member of the Legislative Assembly:—

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly of Meghalaya

do swear in the name of God

solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."

III

Form of oath of office for a member of the Council of Ministers—

swear in the name of God

"I, A.B., do

solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister for Meghalaya, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

IV

Form of oath of secrecy for a member of the Council of Ministers—

swear in the name of God

"I, A.B., do

solemnly affirm

that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for Meghalaya except as may be required for the due discharge of my duties as such Minister."

THE SECOND SCHEDULE

(See Sections 33 and 36)

Autonomous State List

[See Section 33 (1)]

Matters with respect to which the legislative Assembly has exclusive power to make laws.

PART A

The following matters enumerated or to the extent included in List II—State List*.

1. Village and town police within the meaning of clause (f) of sub-paragraph (1) of paragraph 3 of the Sixth Schedule to the Constitution (Entry 2).
2. Administration of justice; constitution and organisation of all courts except the Supreme Court and the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court and the High Court (Entry 3).
3. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with the State of Assam and other States for the use of prisons and other institutions (Entry 4).
4. Local Government, that is to say, the Constitution and powers of Municipal Corporations, improvement trusts, District Boards, mining settlement authorities and other local authorities for the purpose of local self-Government or village administration (Entry 5).
5. Public health and sanitation, hospitals and dispensaries (Entry 6).
6. Pilgrimages other than pilgrimages to places outside India (Entry 7).
7. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase, and sale of intoxicating liquors (Entry 8).
8. Relief of the disabled and unemployable (Entry 9).
9. Burials and burial grounds; cremations and cremation grounds (Entry 10).
10. Education including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and Entry 25 of List III (Entry 11).
11. Libraries, museums and other similar institutions controlled or financed by the autonomous State; ancient and historical monuments and records

*Note. — References in this Schedule to List I, List II or List III or to entries therein are references to the said List or entries therein the Seventh Schedule to the Constitution; and references in brackets at the end of each entry are reference to the corresponding entries in List II or List III in the said Schedule and have been inserted for the sake of convenience only.

other than those declared by or under law made by Parliament to be of national importance (Entry 12).

12. Communications—that is to say, roads, bridges, ferries and other means of communication not specified in List I, but excluding roads, bridges and ferries declared by the Legislature of Assam by law to be State highways; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles (Entry 13).

13. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases subject to the provisions of entry 1 of Part C (Entry 14).

14. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice (Entry 15).

15. Pounds and the prevention of cattle trespass (Entry 16).

16. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power, subject to the provisions of Entry 56 of List I, but excluding water-supplies, irrigation and canals, drainage and embankments, water storage and water power in relation to irrigation, hydro-electric and navigation projects financed by the Government of Assam wholly or in part and declared by the Legislature of the State of Assam by law to be projects of State importance (Entry 17).

17. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans, colonization (Entry 18).

18. Forests, subject to the provisions of entry 2 of Part C (Entry 19).

19. Protection of wild animals and birds (Entry 20).

20. Fisheries (Entry 21).

21. Courts of wards subject to the provisions of entry 34 of List I: encumbered and attached estates (Entry 22).

22. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union (Entry 23).

23. Gas and gas-works (Entry 25).

24. Trade and commerce within the autonomous State subject to the provisions of entry 33 of List III (Entry 26).

25. Markets and fairs (Entry 28).

26. Weights and measures except establishment of standards (Entry 29).

27. Money-lending and money-lenders: relief of agricultural indebtedness (Entry 30).

28. Inns and inn-keepers (Entry 31).

29. Incorporation, regulation and winding up of universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies (Entry 32).

30. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements (Entry 33).

31 Betting and gambling (Entry 34).

32 Works, lands and buildings vested in or in the possession of the autonomous State (Entry 35).

33 Elections to the legislature of the autonomous State subject to the provisions of any law made by Parliament (Entry 37).

34 Salaries and allowances of members, Speaker and Deputy Speaker of the Legislative Assembly (Entry 38).

35 Powers, privileges and immunities of the Legislative Assembly and of the members and committees thereof, enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of Meghalaya (Entry 39).

36 Salaries and allowances of Ministers for the autonomous State (Entry 40).

37 Public services of the autonomous State (Entry 41).

38. Pensions payable by the autonomous State or out of the Consolidated Fund of Meghalaya (Entry 42).

39. Public debt of the autonomous State (Entry 43).

40. Treasure trove (Entry 44.)

41. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues (Entry 45.)

42. Taxes on agricultural income (Entry 46).

43. Duties in respect of succession to agricultural land (Entry 47).

44 Estate duty in respect of agricultural land (Entry 48).

45 Taxes on lands and buildings (Entry 49).

46. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development (Entry 50).

47. Duties of excise on the following goods manufactured or produced in the autonomous State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics; but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry (Entry 51).

48. Taxes on the entry of goods into a local area for consumption, use or sale therein (Entry 52).

49 Taxes on advertisements other than advertisements published in the newspapers (Entry 55).

50 Taxes on goods and passengers carried by road or on inland waterways (Entry 56).

51. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads including tram-cars subject to the provisions of entry 35 of List III (Entry 57)

52. Taxes on animals and boats (Entry 58)

53. Tolls (Entry 59).

54 Taxes on professions, trades, callings and employments (Entry 60)

55. Capitation taxes (Entry 61).

56. Taxes on luxuries, including taxes on entertainment, amusements, betting and gambling (Entry 62)

57. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty (Entry 63).

58 Any other matter not enumerated in this Part and in respect of which a District Council has power to make laws under paragraph 3 of the Sixth Schedule in the Constitution, to the extent to which it is not included in entry 16 of this Part and entry 2 of Part C.

59. Offences against laws with respect to any of the matters in this Part (Entry 64).

60 Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this Part (Entry 65).

61 Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 66).

PART B

The following matters enumerated or to the extent included in List III—Concurrent List.

1. Marriage and divorce; wills intestacy and succession; social customs; appointment or succession of Chiefs or Headmen (Entry 5).

2 Offences against laws with respect to any of the matters in this Part (Entry 1)

3. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this Part (Entry 46).

4. Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 47).

Concurrent List between the autonomous State and the State of Assam

PART C

[See Section 33 (2)]

Matters with respect to which the Legislature of Meghalaya and the Legislature of the State of Assam also have power to make laws, namely, the following matters enumerated or to the extent included in List II — State List and List III — Concurrent List.

1. Scheme of agriculture designed to benefit both the areas of the autonomous State as well as the rest of Assam (Entry 14 of List II).

2. Conversion of forests in catchment areas of projects referred to in entry 16 of Part A, financed by the Government of Assam wholly or in part and declared by the Legislature of the

Legislature of the State of Assam by law to be projects of State importance (Entry 19 of List II)

3. Industries subject to the provisions of entries 7 and 52 of List I (Entry 24 of List II).

4. Production, supply and distribution of goods, subject to the provisions of entry 33 of List III (Entry 27 of List II).

5. Removal from the autonomous State to any other area of the State of Assam or to any other State of prisoners and accused persons (Entry 4 of List III).

6. Transfer of property other than agricultural land, subject to entry 58 of Part A; registration of deeds and documents (Entry 6 of List III).

7. Economic and social planning (Entry 20 of List III).

8. Acquisition and requisitioning of property (Entry 42 of List III).

9. Recovery in the autonomous State of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such arrears, arising outside the autonomous State (Entry 43 of List III).

10. Inquiries and statistics for the purposes of any of the matters specified in this Schedule (Entry 45 of List III).

11. Offences against laws with respect to any of the matters in this Part (Entry 64 of List II and Entry 1 of List III).

12. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this Part (Entry 65 of List II and Entry 46 of List III).

13. Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 66 of List II and Entry 47 of List III).

THE THIRD SCHEDULE

(See Section 58)

Apportionment Of Assets And Liabilities

1. Definitions.

In this Schedule.—

(a) "purpose of the autonomous State" means a purpose relatable to any of the matters in respect of which the Legislature of Meghalaya has power to make laws under this Act; and

(b) "population ratio", in relation to Meghalaya, means such ratio as the Central Government may, by order, specify as the ratio between the population as ascertained at the last preceding census of Meghalaya and the rest of the State of Assam

2. Lands and goods.

(1) Subject to the other provisions contained in this Schedule, all land and all stores, articles and other goods held by the State of Assam within the territories of Meghalaya shall, on the appointed day, pass to Meghalaya, if the purposes for which they were held will be purposes of the autonomous State.

(2) Stores relating to the Secretariat and offices of Heads of Departments

having jurisdiction over the areas comprised partly in Meghalaya and partly in the rest of Assam and unissued stores shall be divided between the State of Assam and Meghalaya in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution thereof

Explanation — In this paragraph, the expression "land" includes immovable property of every description and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

3. Treasury and bank balances.

The total of the cash balances in all treasuries of the State of Assam and the balances of that State with the Reserve Bank of India or any other bank immediately before the appointed day shall be divided between the State of Assam and Meghalaya according to the population ratio.

Provided that for the purpose of such division there shall be no transfer of cash balance from any treasury to any other treasury, and the apportionment shall be effected by adjusting the balance of the State of Assam and Meghalaya in the books of the Reserve Bank of India on the appointed day or in such other manner as the Central Government may, by order, direct

4. Arrears of taxes.

Meghalaya shall have the right to recover the arrears of any tax or duty, including the arrears of land revenue, on property situate in Meghalaya and shall also have the right to recover the arrears of any other tax or duty if the place of assessment of that tax or duty is located in Meghalaya:

Provided that nothing in this paragraph shall apply in relation to arrears of any tax or duty which Meghalaya is not competent to collect

5. Right to recover loans and advances.

(1) The right to recover any loans or advances made before the appointed day by the State of Assam to any local body, society, agriculturist or other person in Meghalaya shall belong to Meghalaya, if the purpose for which the loans or advances were made will thereafter be a purpose of the autonomous State.

(2) The right to recover loans and advances of pay and travelling allowances to a Government servant made before the appointed day by the State of Assam shall pass to Meghalaya if, after the appointed day, that Government servant is required to serve in connection with the affairs of Meghalaya under sub-section (3) of Section 65.

6. Investments and credits in certain funds.

The investments made before the appointed day from the Cash Balance Investment Account and any other general fund of the State of Assam shall, after the appointed day, be divided be-

tween the State of Assam and Meghalaya according to the population ratio; and the investments in any special fund the objects of which are confined to a local area in Meghalaya shall pass to Meghalaya if such investment relates to a purpose of the autonomous State.

7. Assets and liabilities of State undertakings and investments.

(1) The assets and liabilities in Meghalaya on the appointed day relating to any commercial or industrial undertaking of the State of Assam other than an undertaking on which the State of Assam has incurred a capital outlay exceeding rupees fifty lakhs or a Government company shall, after the appointed day, pass to Meghalaya if the purpose of the undertaking relates to a purpose of the autonomous State.

(2) Where a depreciation reserve fund is maintained by the State of Assam for any such undertaking as is referred to in sub-paragraph (1), the securities held in respect of such investments made from that fund shall pass to Meghalaya.

(3) The investments of the State of Assam made before the appointed day in any body corporate or co-operative society whose area of operation or jurisdiction extends to areas comprised partly within Meghalaya and partly within the rest of the State of Assam, or in any Government company or private commercial or industrial undertaking, shall, if the Central Government so directs, be allocated between the Government of Assam and the Government of Meghalaya in such proportion as may be agreed upon between the two Governments within one year from the date of the direction aforesaid or, in default of such agreement, as the Central Government may by order direct.

8. Public debt.

(1) The public debt of the State of Assam attributable to loans raised by the issue of Government securities and outstanding with the public immediately before the appointed day shall continue to be the public debt of that State, and Meghalaya shall be liable to pay to the State of Assam its share of the sums due from time to time for the servicing and repayment of the debt.

(2) For the purpose of determining the share referred to in sub-paragraph (1), the debt shall be deemed to be divided between the State of Assam and Meghalaya as if it were a debt referred to in sub-paragraph (4).

(3) Out of so much of the public debt of Assam, other than the public debt referred to in sub-paragraph (1), as is equal to the amount of loans and advances made by that State and outstanding on the appointed day, the share of the liability of Meghalaya shall be for an amount equal to the loans and advances recoverable by Meghalaya under paragraph 5.

(4) The remaining public debt of the State of Assam attributable to loans

taken from the Central Government, the Reserve Bank of India or any other body or bank outstanding immediately before the appointed day, shall be divided between the State of Assam and Meghalaya in proportion to the total capital expenditure on all capital works and other capital outlays incurred or deemed to have been incurred by the State of Assam up to the appointed day and the total expenditure on all capital works and other capital outlays incurred or deemed to have been incurred up to that day in Meghalaya for purposes of the autonomous State.

(5) For the purposes of this paragraph, "Government security" means a security created and issued by the State of Assam for the purpose of raising a public loan and having any of the forms specified in or prescribed under clause (2) of Section 2 of the Public Debt Act, 1944.

9. Refund of taxes collected in excess.

After the appointed day, it shall be the liability of Meghalaya to refund any tax or duty on property, including land revenue, collected in excess on any property situate in Meghalaya or any other tax or duty collected in excess, if the place of assessment of that tax or duty is situate in Meghalaya.

Provided that nothing in this paragraph shall apply to the refund of any tax or duty which Meghalaya is not competent to collect.

10. Deposits, etc.

The liability of the State of Assam in respect of any civil deposit or local fund deposit made before the appointed day in any place situate in Meghalaya, shall become the liability of Meghalaya if the deposit is for any purpose of the autonomous State.

11. Provident Fund.

The liability of the State of Assam in respect of the Provident Fund account of a Government servant required to serve in connection with the affairs of Meghalaya under subsection (3) of Section 65 shall, on and from the appointed day, be the liability of Meghalaya.

12. Pensions.

The liability of the State of Assam or Meghalaya in respect of pensions shall be apportioned between the two in such manner as may be agreed upon between them or in default of such agreement, in such manner as the Central Government may, by order specify.

13. Contract.

(1) Where, before the appointed day, the State of Assam has made any contract in the exercise of its executive power for any of the purposes of that State, that contract shall be deemed to have been made in the exercise of the executive power of Meghalaya if the purpose is as from that day exclusively a purpose of the autonomous State and all rights and liabilities which have accrued, or may accrue, under any such contract shall, to the extent to which they would have been rights

or liabilities of Assam, be rights or liabilities of Meghalaya.

(2) For the purposes of this paragraph, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract —

(a) any liability to satisfy an order or award made by any court or tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in, or in connection with, any such proceedings.

(3) This paragraph shall have effect subject to the other provisions of this Schedule relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

14. Liability in respect of actionable wrong.

Where, immediately before the appointed day, the State of Assam is subject to any liability in respect of an actionable wrong other than a breach of contract, that liability shall be the liability of Meghalaya if it relates thereafter to a purpose of the autonomous State.

15. Liability as guarantor.

Where, immediately before the appointed day, the State of Assam is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability shall be the liability of Meghalaya if it relates thereafter to a purpose of the autonomous State.

16. Items in suspense.

If any item in suspense relating to a purpose of the autonomous State is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing paragraphs of this Schedule, it shall be dealt with in accordance with that provision.

17. Residuary provisions.

The benefit or burden of any asset or liability of the State of Assam which relates to a purpose of the autonomous State and which is not dealt with in any of the foregoing paragraphs of this Schedule, shall pass to Meghalaya.

18. Apportionment of assets and liabilities by agreement.

Where the State of Assam and Meghalaya agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that as provided for in the foregoing paragraphs of this Schedule, then, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

19. Power of Central Government to order allocation or adjustment in certain cases.

Where, by virtue of any of the provisions of this Schedule, the State of

Assam or Meghalaya is entitled to any property, or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made to it within a period of three years from the appointed day by the State of Assam or the autonomous State, as the case may be, that it is just and equitable that that property or those benefits should be transferred to one of the two States or shared between them, or that a contribution towards that liability should be made by either of the States, the said property or benefits shall be allocated in such manner, or Meghalaya or the State of Assam shall make to the other State primarily subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the Government of Assam and the Government of Meghalaya, by order, determine.

THE FOURTH SCHEDULE

(See Section 74)

Amendments To The Sixth Schedule Of The Constitution

(1) In the Sixth Schedule to the Constitution (hereinafter referred to as the Sixth Schedule), in sub-paragraph (3) of paragraph 1, after clause (f), the following clause shall be inserted, namely:—

“(ff) alter the name of any autonomous district;”;

(2) In paragraph 2 of the Sixth Schedule,—

(i) for sub-paragraph (1), the following sub-paragraph shall be substituted, namely:—

“(1) There shall be a District Council for each autonomous district consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage.”;

(ii) in sub-paragraph (6) —

(a) in clause (e), for the words “such Councils”, the words “Regional Councils” shall be substituted;

(b) in clause (g), after the words “conduct of business”, the brackets and words “(including the power to act notwithstanding any vacancy)” shall be inserted;

(iii) after sub-paragraph (6), the following sub-paragraph shall be inserted, namely:—

“(6A) The elected members of the District Council shall hold office for a term of five years from the date appointed for the first meeting of the Council after the general elections to the Council, unless the District Council is sooner dissolved under paragraph 16 and a nominated member shall hold office at the pleasure of the Governor:

Provided that the said period of five years may, while a Proclamation of Emergency is in operation or if circumstances exist which, in the opinion of the Governor, render the holding of elections impracticable, be extended by the Governor for a period not exceeding

one year at a time and in any case where a Proclamation of Emergency is in operation not extending beyond a period of six months after the Proclamation has ceased to operate.

Provided further that a member elected to fill a casual vacancy shall hold office only for the remainder of the term of office of the member whom he replaces."

(iv) in sub-paragraph (7) —

(a) after the words "make rules", where they first occur the words "with the approval of the Governor" shall be inserted, and where they occur a second time, the words "with like approval" shall be inserted;

(b) the second proviso shall be omitted.

3. In paragraph 3 of the Sixth Schedule, in sub-paragraph (1), —

(i) in the proviso to clause (a), for the words "Government of Asam", the words "Government of Assam or the Government of Meghalaya" shall be substituted;

(ii) for clause (i), the following clause shall be substituted, namely:—

(i) "marriage and divorce;"

4. In paragraph 4 of the Sixth Schedule, the following sub-paragraph shall be inserted at the end, namely:—

"(5) On and from such date as the President may, after consulting the Government of Assam or, as the case may be, the Government of Meghalaya, by notification appoint in this behalf, this paragraph shall have effect in relation to such autonomous district or region as may be specified in the notification, as if —

(i) in sub-paragraph (1), for the words "between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply", the words "not being suits and cases of the nature referred to in sub-paragraph (1) of paragraph 5 of this Schedule, which the Governor may specify in this behalf," had been substituted,

(ii) sub-paragraphs (2) and (3) had been omitted;

(iii) in sub-paragraph (4) —

(a) for the words "A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating", the words "The Governor may make rules regulating" had been substituted, and

(b) for clause (a), the following clause had been substituted, namely:—

"(a) the constitution of village councils and courts, the powers to be exercised by them under this paragraph and the courts to which appeals from the decisions of village councils and courts shall lie";

(c) for clause (c), the following clause had been substituted, namely —

"(c) the transfer of appeals and other proceedings pending before the Regional or District Council or any court constituted by such Council immediately

before the date appointed by the President under sub-paragraph (5);" and

(d) in clause (e), for the words, brackets and figures "sub-paragraphs (1) and (2)", the word, brackets and figure "sub-paragraph (1)" had been substituted".

5. In paragraph 5 of the Sixth Schedule, after sub-paragraph (3), the following sub-paragraph shall be inserted, namely:—

"(4) On and from the date appointed by the President under sub-paragraph (5) of paragraph 4 in relation to any autonomous district or autonomous region, nothing contained in this paragraph shall, in its application to that district or region, be deemed to authorise the Governor to confer on the District Council or Regional Council or on courts constituted by the District Council any of the powers referred to in sub-paragraph (1) of this paragraph."

6. For paragraph 6 of the Sixth Schedule, the following paragraph shall be substituted, namely:—

Powers of the District Council to establish primary schools, etc.

"6. (1) The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, cattle ponds, ferries, fisheries, roads, road transport and waterways in the district and may, with the previous approval of the Governor, make regulations for the regulation and control thereof and, in particular, may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

(2) The Governor may, with the consent of any District Council entrust either conditionally or unconditionally to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, co-operative societies, social welfare, village planning or any other matter to which the executive power of the State of Assam or Meghalaya, as the case may be, extends."

7. In paragraph 7 of the Sixth Schedule, for sub-paragraph (2), the following sub-paragraphs shall be substituted, namely:—

"(2) The Governor may make rules for the management of the District Fund, or, as the case may be, the Regional Fund and for the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.

(3) The accounts of the District Council or, as the case may be, the Regional Council shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.

(4) The Comptroller and Auditor-General shall cause the accounts of the District and Regional Councils to be audited in such manner as he may think fit, and the reports of the Comptroller and Auditor-General shall be submitted to the President."

troller and Auditor-General relating to such accounts shall be submitted to the Governor who shall cause them to be laid before the Council."

8. In paragraph 8 of the Sixth Schedule, in sub-paragraph (4), the following words shall be inserted at the end, namely :—

"and every such regulation shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect."

9. After para. 12 of the Sixth Schedule, the following paragraph shall be inserted, namely:—

Special provisions as respects application of laws in Meghalaya.

"12-A. (1) Notwithstanding anything contained in paragraph 12,—

(a) if any provision of a law made by a District or Regional Council in Meghalaya with respect to any of the matters specified in clause (b) or clause (c) of sub-paragraph (1) of paragraph 3 of this Schedule is repugnant to any provision of a law made by the Legislature of the State of Assam with respect to any project declared by the Legislature of that State to be of State importance, then, the law made by the District Council or, as the case may be, the Regional Council, whether made before or after the law made by the Legislature of the State of Assam, shall to the extent of the repugnancy, be void and the law made by the Legislature of the State of Assam shall prevail;

(b) if any provision of a law made by a District or Regional Council in Meghalaya with respect to any of the matters specified in clause (b) or clause (c) or clause (f) of sub-paragraph (1) of paragraph 3 of this Schedule is repugnant to any provision of a law made by the Legislature of Meghalaya with respect to that matter, then, the law made by the District Council or, as the case may be, the Regional Council, whether made before or after the law made by the legislature of Meghalaya shall, to the extent of repugnancy, be void and the law made by the Legislature of Meghalaya shall prevail.

(2) If it appears to two or more District Councils or Regional Councils in Meghalaya to be desirable that any of the matters with respect to which they have power to make laws under paragraph 3 of this Schedule should be regulated by the Legislature of Meghalaya by law, and if resolutions to that effect are passed by the said District Councils or Regional Councils, it shall be lawful for the Legislature of Meghalaya to pass an Act regulating that matter accordingly, and any Act so passed shall apply to the autonomous districts or regions concerned, and to any other autonomous district or region the District or Regional Council whereof adopts it afterwards by resolution passed in this behalf.

(3) Any Act passed by the Legislature of Meghalaya under sub-paragraph (2) of this paragraph may be amended or repealed by an Act of the Legislature of Meghalaya passed in like manner.

but shall not, as respects any autonomous district or region to which it applies, be amended or repealed by any law made by the District or Regional Council thereof.

(4) The Governor may, with respect to any Act of the Legislature of the State of Assam, and the President may, with respect to any Act of Parliament, by public notification direct, that it shall not apply to Meghalaya, or shall apply thereto, or to any part thereof subject to such exceptions or modifications as he may specify in the notification, and any such direction may be so given as to have retrospective effect.

(5) The provisions of clause (b) of sub-paragraph (1) of paragraph 12 shall not apply to Meghalaya."

10. In sub-paragraph (1) of paragraph 15 of the Sixth Schedule, after the words "safety of India", the words "or is likely to be prejudicial to public order" shall be inserted.

11. Paragraph 16 of the Sixth Schedule shall be re-numbered as sub-paragraph (1) of that paragraph and to that paragraph as so re-numbered, the following sub-paragraphs shall be added, namely:—

"(2) If at any time the Governor is satisfied that a situation has arisen in which the administration of an autonomous district or region cannot be carried on in accordance with the provisions of this Schedule, he may, by public notification, assume to himself all or any of the functions or powers vested in or exercisable by the District Council or, as the case may be, the Regional Council and declare that such functions or powers shall be exercisable by such person or authority as he may specify in this behalf, for a period not exceeding six months.

Provided that the Governor may by a further order or orders extend the operation of the initial order by a period not exceeding six months on each occasion.

(3) Every order made under sub-paragraph (2) of this paragraph with the reasons therefor shall be laid before the Legislature of the State and shall cease to operate at the expiration of thirty days from the date on which the State Legislature first sits after the issue of the order, unless, before the expiry of that period it has been approved by the State Legislature"

12. After paragraph 20 of the Sixth Schedule, the following paragraph shall be inserted, namely :—

Interpretation.

"20-A. (1) In this Schedule,—

(a) "Governor", in relation to Meghalaya, means the Governor of Assam acting on the aid and advice of the Council of Ministers for Meghalaya, except in so far as he is by or under this Schedule required to exercise his functions in his discretion or to exercise his powers under sub-paragraph (4) of paragraph 12A;

(b) "Meghalaya" means the autonomous State formed under Article 244A.

(2) Subject to any express provision made in this behalf, the provisions of this Schedule shall, in their application to Meghalaya, have effect —

(i) as if references to the Government of Assam, State of Assam, State and Legislature of the State were references respectively to the Government of Meghalaya, the autonomous State of Meghalaya, Meghalaya and the Legislature of Meghalaya;

(ii) as if in paragraph 13, the words and figures "under article 202" had been omitted."

THE MOTOR VEHICLES (AMENDMENT) ACT, 1969

(ACT 56 OF 1969) [*]

[29th December, 1969]

An Act further to amend the Motor Vehicles Act, 1939.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the Motor Vehicles (Amendment) Act, 1969.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Amendment of Section 2.

In section 2 of the Motor Vehicles Act, 1939 (hereinafter referred to as the principal Act),—

(a) clause (1) shall be re-numbered as clause (1B), and before clause (1B) as so re-numbered, the following clauses shall be inserted, namely:—

'(1) "area", in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification in the Official Gazette;

(1A) "articulated vehicle" means a tractor to which a trailer is attached in such a manner that a part of the trailer is super-imposed on, and a part of the weight of the trailer is borne by, the tractor;

(b) in clause ((3), for the words "fixed or agreed rate or sum and from one point to another without stopping to pick up", the following words, brackets and figures shall be substituted, namely:—

"fixed or agreed rate or sum —

(i) on a time basis whether or not with reference to any route or distance, or

(ii) from one point to another, and in either case without stopping to pick up."

(c) in clause (9), for the figures "8,200," the figures "11,000" shall be substituted.

(d) in clause (13), for the figures "3,000", the figures "4,000" shall be substituted;

(e) for clause (17), the following clause shall be substituted, namely:—

'(17) "motor cycle" means a two-wheeled motor vehicle, the unladen weight of which, inclusive of the unladen weight of any detachable side car, having an extra wheel, attached to motor vehicle, does not exceed 600 kilograms';

(f) after clause (28), the following clause shall be inserted, namely:—

'(28A) "route" means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another;'

(g) after Clause (29), the following clause shall be inserted namely:—

'(29-A) "tourist vehicle" means a contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as the State Government may, by notification in the Official Gazette, specify in this behalf.'

3. Amendment of Section 3.

In Section 3 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Notwithstanding anything contained in sub-section (1), a person who holds an effective driving licence authorising him to drive a motor car may drive any motor cab hired by him for his own use".

4. Amendment of Section 7.

In Section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any person who is not disqualified under Section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area—

(i) in which he ordinarily resides or carries on business, or

(ii) in which the school or establishment where he is receiving or has received instruction in driving a motor vehicle is situate, or

(iii) if the application is for a driving licence to drive as a paid employee, in which the employer resides or carries on business, for the issue to him of a driving licence"

5. Amendment of Section 11.

In Section 11 of the principal Act,—

(a) in sub-section (1), after the proviso, the following further proviso shall be added, namely:—

"Provided further that where the application is for the renewal of a licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, the same shall be accompanied by a fresh medical certificate in Form C as set forth in the First Schedule, signed

* Received the assent of the President on 29-12-1969. Act published in Gaz of Ind 30 12-1969, Pt. II-S 1, Ext. p. 507.

by a registered medical practitioner, and the provisions of sub-section (5) of Section 7 shall apply to every such case."

(b) after sub-section (3-A), the following sub-section shall be inserted, namely:—

"(3-B) When the authority to whom an application for the renewal of a licence to drive as a paid employee or to drive a transport vehicle is made, is not the authority which issued the licence sought to be renewed, it may for the purpose of deciding whether the application for such renewal may be granted verify the antecedents of the applicant in such manner as may be prescribed and pending the verification, such authority may grant a provisional licence for such period or periods not exceeding six months in the aggregate, subject to the condition that every such provisional licence shall cease to be effective immediately on the renewal of the licence sought to be renewed, or, as the case may be, on the refusal to renew the licence, and

(i) where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed,

(ii) where the application for renewal has not been rejected within the said period, the licence shall be renewed"

6. Amendment of Section 15.

In Section 15 of the principal Act,—

(a) in sub-section (1), for the words "a driving licence" the words "any driving licence or a licence to drive a particular class of description of vehicle" shall be substituted;

(b) to sub-sec. (2), the following proviso shall be added, namely:—

"Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order, made under sub-section (1), disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder."

7. Amendment of Section 16.

In Section 16 of the principal Act, in sub-section (1), for the words "a transport vehicle", the words "any transport vehicle or a transport vehicle of a particular class or description" shall be substituted.

8. Amendment of Section 18.

In Section 18 of the principal Act, after the words "cease to be effective", the words "to such extent and" shall be inserted.

9. Amendment of Section 21.

In Section 21 of the principal Act, in sub-section (2),—

(a) for clause (aa), the following clause shall be substituted, namely:—

"(aa) the minimum qualifications of persons to whom licences to drive transport vehicles are issued, the time within which such qualifications are to be acquired by persons holding immediately before the commencement of the Motor

Vehicles (Amendment) Act, 1969, licences to drive transport vehicles, and the duties, functions and conduct of such persons;"

(b) in clause (dd), for the words "stage carriages or contract carriages", the words "transport vehicles" shall be substituted;

(c) in clause (i), after the words "for the instruction of drivers of motor vehicles", the brackets and words "(including the registration of such schools or establishments)" shall be inserted.

10. Amendment of Section 25.

In Section 25 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

"Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body, the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods so, however, that the total period of such temporary registration may not exceed, in any case, three months."

11. Amendment of Section 27.

In Section 27 of the principal Act, after the words "particulars of any previous registration of the vehicle", the words "or furnishes inaccurate particulars in the application for registration of such vehicle" shall be inserted.

12. Omission of Section 29-A.

Section 29-A of the principal Act shall be omitted.

13. Insertion of new Section 31-A.

In the principal Act, after Section 31, the following section shall be inserted, namely:—

Special provisions regarding motor vehicles subject to hire purchase agreement.

"31-A. (1) Where an application for registration of a motor vehicle which is held under a hire-purchase agreement is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement.

(2) When the ownership of any motor vehicle registered under this Chapter is transferred and the transferee enters into a hire-purchase agreement with any person, the registering authority shall, on receipt of an application from the parties to that agreement, make an entry as to the existence of such hire-purchase agreement in the certificate of registration.

(3) Any entry made under sub-section (1) or sub-section (2), may be cancelled by the registering authority on proof of the termination of the hire-purchase agreement by the parties concerned.

(4) No entry regarding the transfer of ownership of any motor vehicle which is held under a hire-purchase agreement shall be made in the certificate of registration except with the written consent of the person whose name has

been specified in the certificate of registration as the person with whom the registered owner has entered into a hire-purchase agreement.

(5) Where the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into a hire-purchase agreement, satisfies the registering authority that he has taken possession of the vehicle owing to the default of the registered owner under the provisions of the agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such authority may, after giving the registered owner an opportunity to make such representation as he may wish to make (by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration) and notwithstanding that the certificate of registration is not produced before it, cancel the certificate and issue a duplicate thereof to the person aforesaid.

(6) The provisions of sub-sections (1) to (5) shall, so far as may be, apply to a motor vehicle which is subject to hypothecation as they apply to any motor vehicle which is held under a hire-purchase agreement."

14. Amendment of Section 36.

In Section 36 of the principal Act, in sub-section (3), for the words "in excess of that", the words "different from that" shall be substituted.

15. Amendment of Section 38.

In Section 38 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

'Provided that this sub-section shall, in respect of a certificate of fitness relating to a new transport vehicle registered for the first time and not plying in hilly areas, have effect as if for the words "six months", the words "one year" were substituted.

Explanation.— In this sub-section, the expression "hilly areas" means such areas as the State Government may, having regard to the elevation and topography, by notification in the Official Gazette, declare to be hilly areas.'

16. Amendment of Section 41.

In Section 41 of the principal Act, in sub-section (2),—

(a) in clause (e), for the brackets and figure "(3)", the brackets and figure "(2)" shall be substituted;

(b) in clause (f), after the words "alteration of certificates of registration", the words "for making or cancelling an endorsement in respect of an agreement of hire-purchase or hypothecation on a certificate of registration," shall be inserted.

17. Amendment of Section 42.

In Section 42 of the principal Act,—

(a) in sub-section (1), after the words "any public place," the brackets and words "(whether or not such vehicle is actually carrying any passenger or goods)" shall be inserted;

(b) in sub-section (3),—

(i) clause (ee) shall be omitted;

(ii) after clause (f), the following clause shall be inserted, namely:—

"(ff) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;"

(iii) in clause (i), the words "except as may otherwise be prescribed," shall be omitted;

(iv) after clause (i), the following clauses shall be inserted, namely:—

"(j) subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in any other State, without carrying any passenger or goods;

(k) to any transport vehicle which has been temporarily registered under Section 25, while proceeding empty to any place for the purpose of registration of the vehicle under Section 24;

(l) to any transport vehicle used for such purposes (other than plying for hire or reward) as the Central Government may, by notification in the Official Gazette, specify;

(m) to any transport vehicle which, owing to flood earthquake or any other natural calamity, is required to be diverted through any other route, whether within or outside the State, with a view to enabling it to reach its destination; or

(n) to any transport vehicle while proceeding empty to any place for purpose of repair."

18. Amendment of Section 43.

In Section 43 of the principal Act, in sub-section (1),—

(a) in sub-clause (i), after the words "the fixing of fares and freights", the brackets and words "(including the maximum and minimum in respect thereof)" shall be inserted;

(b) in sub-clause (iii), after the words "existing permits", the words, brackets and figures "are not renewed in pursuance of the provisions of sub-section (1-D) of Section 68-F, or" shall be inserted.

19. Amendment of Section 44.

In Section 44 of the principal Act, in sub-section (2),—

(a) for the words "and such other officials and non-officials, not being less than two.", the words "and, in the case of a State Transport Authority, such other officials and non-officials, not being less than two, and, in the case of a Regional Transport Authority, such other persons (whether officials or not), not being less than two," shall be substituted;

(b) for the words "Provided that", the following shall be substituted namely:—

"Provided that nothing in this section shall prevent any of the members

of the State Transport Authority or the Regional Transport Authority, as the case may be, to preside over a meeting of such Authority during the absence of the Chairman, notwithstanding that such member does not possess judicial experience:

Provided further that the State Government may—

(i) where it considers necessary or expedient so to do, constitute Regional Transport Authority for any region so as to consist of only one member who shall be an official with judicial experience;

(ii) by rules made in this behalf, provide for the transaction of business in the absence of the Chairman or any other member and specify the nature of business which, the circumstances under which, and the manner in which, business could be so transacted:

Provided also that.”

20. Amendment of Section 45.

Section 45 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business.

(3) Every applicant for the grant of a new permit under Section 46 or Section 54 shall deposit, by way of security, with his application an amount in such manner and at such rate not exceeding rupees two hundred per motor vehicle, as the State Government may, with reference to each class of vehicle, by notification in the Official Gazette, specify.

(4) The security furnished under sub-section (3) may be forfeited in whole or in part by the transport authority if it is satisfied that the application was made for the purpose of preventing the issue of a temporary permit under Section 62 and the whole or part of it as has not been forfeited shall be refunded to the applicant as soon as may be, after the disposal of the application:

Provided that no such forfeiture shall be made unless the transport authority has given the applicant a reasonable opportunity of being heard.”

21. Amendment of Section 46.

In Section 46 of the principal Act, in clause (c),—

(a) for the word “services”, wherever it occurs, the word “trips” shall be substituted;

(b) the following Explanation shall be added at the end, namely:—

‘Explanation.— For the purposes of this section, Section 48 and Section 57, “trip” means a single journey from one point to another, and every return

journey shall be deemed to be a separate trip;’.

22. Amendment of Section 48.

In Section 48 of the principal Act,—

(a) sub-section (2) shall be omitted;

(b) in sub-section (3),—

(i) for clause (i), the following clauses shall be substituted, namely:—

“(i) that the vehicle or vehicles shall be used only in a specified area, or on a specified route or routes;

(ia) that the service or any specified part thereof shall be commenced with effect from a specified date;”;

(ii) in clause (ii), for the words “services to be maintained”, the words “trips to be provided” shall be substituted;

(iii) to clause (xxi), the following proviso shall be added, namely:—

“Provided that the conditions specified in pursuance of clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometers, and any variation within such limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof;”.

23. Amendment of Section 51.

In Section 51 of the principal Act, in sub-section (2), after clause (ii), the following clause shall be inserted, namely:—

“(iia) the maximum number of passengers and the maximum weight of luggage that may be carried on any specified vehicle or on any vehicle of a specified type, either generally or on specified occasions or at specified times and seasons and the same is prominently marked on the vehicle;”.

24. Amendment of Section 57.

In Section 57 of the principal Act, in sub-section (8), for the words “number of services above the specified maximum”, the words “number of trips above the specified maximum or by altering the route covered by it” shall be substituted.

25. Amendment of Section 58.

In Section 58 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (a) of the proviso, for the words “sixty days”, the words “one hundred and twenty days” shall be substituted;

(ii) in clause (b) of the proviso, for the words “thirty days”, the words “sixty days” shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of Section 62, and

where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded."

25. Amendment of Section 59.

In Section 59 of the principal Act—
(a) in sub-section (2), for the words "replace by another vehicle of the same nature and capacity any vehicle covered by the permit", the words "replace any vehicle covered by the permit by any other vehicle of the same nature" shall be substituted;

(b) in sub-section (3) —

(i) in clause (a), for the words "permit relates", the words and figures "permit relates carry valid certificates of fitness issued under Section 38 and" shall be substituted;

(ii) in clause (c), the words "maximum or minimum" shall be omitted;

(iii) in clause (d), for the word and figures "Section 72", the words and figures "Section 5 or Section 72" shall be substituted.

27. Amendment of Section 60.

In Section 60 of the principal Act—
(a) after sub-section (1-A), the following sub-section shall be inserted, namely:—

"(1-B) The transport authority may exercise the powers conferred on it under sub-sections (1) and (1-A) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (5) of Section 44 as if the said permit was a permit granted by the transport authority."

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2-A) The powers exercisable under sub-section (1) or sub-section (1-A) (other than the power to cancel a permit) by the transport authority which granted the permit may be exercised by any authority or person to whom such powers have been delegated under sub-section (5) of Section 44:

Provided that:—

(i) no such authority or person shall pass an order suspending the permit for a period exceeding one month or reducing the period thereof by more than one month; and

(ii) any such order shall be placed within the said period of one month before the transport authority who may vacate the order or extend the said period of one month where it has not expired or cancel the permit or take action under sub-section (3), as it may deem fit."

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) the powers exercisable by the transport authority under sub-section (3), may, where an appeal has been preferred under Section 64, be exercised also by the appellate authority."

25. Amendment of Section 62.

Section 62 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section 1 as so

re-numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where—

(i) no permit could be issued under Section 49 or Section 51 or Section 54 in respect of that route or area by reason of an order of a Court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or

(ii) as a result of the suspension by a Court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension:

Provided that the number of transport vehicles in respect of which the temporary permit is so granted shall not exceed the number of vehicles in respect of which the issue of a permit has been restrained or as the case may be, the permit has been suspended."

29. Amendment of Section 63.

In Section 63 of the principal Act—

(a) to sub-section (1), the following further proviso shall be added, namely:—

"Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometres, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State."

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit."

(c) in the proviso to sub-section (3), after the words "arrived at between the States", the following shall be inserted, namely:—

"after complying with the requirements of sub-section (3-A), or for the grant of counter-signatures of permits in pursuance of any direction issued by the Commission under clause (c) of sub-section (2) of Section 63-A"

(d) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Every proposal to enter into an agreement between the States referred to in the proviso to sub-section (3) and every proposal in such agreement to fix the number of permits which is proposed to be granted or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette together with a notice of the date before which representations in connection therewith may be submitted, and the date, not being less than thirty days from the date of such publication, on which, and the authority by which, and the time and place at which, the proposal and any representations received in connection therewith will be considered :

Provided that no person, association or authority, other than those mentioned hereunder, shall have a right to make such representation, namely :—

- (i) any person already providing passenger or goods transport facilities by any means in the proposed area or along or near the proposed route;
- (ii) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government;
- (iii) any local authority or police authority within whose jurisdiction any part of the proposed area or route lies.

(3-B) Every agreement arrived at between the States shall, in so far as it relates to the grant of counter-signature of permits, be published in the Official Gazette by each of the State concerned and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it.";

(e) after sub-section (6), the following sub-sections shall be inserted, namely :—

"(7) Notwithstanding anything contained in sub-section (1) but subject to any rules that may be made under this Act, any State Transport Authority may, for the purpose of promoting tourism, grant in respect of tourist vehicles such number of permits valid for the whole or any part of India as the Central Government may, in respect of that State, specify in this behalf, and the provisions of Sections 49, 50, 51, 57, 58, 59, 59-A, 60, 61 and 64 shall, as far as may be, apply in relation to such permits.

(8) Every applicant for a permit under sub-section (7) shall deposit, by way of security, in such manner and such amount, not exceeding rupees two thousand per motor vehicle, as the Central Government may with reference to each class of vehicle, by notification in the Official Gazette, specify, and such security shall be refunded wholly or in part to the applicant if his application for permit has not been granted, or, as the case may be, granted for a lesser number of vehicles than what was applied for.

(9) Any amount deposited by way of security under sub-section (8) may, at

any time, be forfeited in whole or in part by the State Transport Authority if it is satisfied after making such inquiry as it thinks fit that—

(a) the permit was obtained by fraud or misrepresentation, or

(b) the holder of the permit has failed without reasonable cause to use the vehicle or vehicles for the purpose for which the permit was granted, or

(c) the holder of the permit has committed a breach of any condition of the permit, or

(d) the holder of the permit has used or caused it to be used in any manner not authorised by the permit :

Provided that no such forfeiture shall be made unless the State Transport Authority has given the permit-holder a reasonable opportunity of being heard.

(10) The following shall be conditions of every permit granted under sub-section (7), namely :—

(i) every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify in this behalf;

(ii) every such motor vehicle shall be driven by a person having such qualifications and satisfying such conditions as may be specified by the Central Government; and

(iii) such other conditions as may be prescribed by the Central Government."

30. Amendment of Section 63-A.

In Section 63-A of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

"(2-A) If any direction issued by the State Government under Section 43 is repugnant to any direction made by the Commission under clause (c) of sub-section (2), then, the direction of the Commission, whether issued before or after the direction issued by the State Government, shall prevail and the direction made by the State Government shall, to the extent of the repugnancy, be of no effect."

31. Insertion of new Section 63-BB.

After Section 63-B of the principal Act, the following section shall be inserted, namely —

Appeal against decision, direction or order under Sec. 63-A.

"63-BB. (1) Any person or authority (including Government) aggrieved by the decision, direction or order of the Commission under clause (b) or clause (c) or cl. (d) or cl. (e) of sub-section (2) of Section 63-A may, within sixty days from the date of the communication to him or it, of such decision, direction or order, as the case may be, appeal to the authority specified by the Central Government under clause (h) of Section 63-C, which shall decide the appeal after giving the person or the authority an opportunity of being heard and pass such order thereon as it may deem fit and such order shall be final :

Provided that the authority aforesaid may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) Every appeal under sub-sec. (1) shall be preferred in such manner and accompanied by such fee as may be prescribed by the Central Government."

32. Amendment of Section 63-C.

In Section 63-C of the principal Act, for clause (h), the following clause shall be substituted, namely:—

"(h) the authority to which the manner in which and the fees on payment of which, an appeal against any decision, direction or order of the Commission may be preferred;"

33. Amendment of Section 64.

Section 64 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered.—

(i) after clause (h), the following clause shall be inserted, namely:—

"(hh) aggrieved by an order of forfeiture passed under sub-sec. (4) of Section 45 or under sub-section (9) of Section 63, or";

(ii) for the words "the prescribed authority who shall give such person and the original authority an opportunity of being heard," the words, brackets and figure "the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final" shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-sections and Explanation shall be inserted, namely:—

"(2) The State Government shall constitute for the State a State Transport Appellate Tribunal which shall consist of a whole-time judicial officer not below the rank of a District Judge

Provided that in relation to a Union territory the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), every appeal pending at the commencement of the Motor Vehicles (Amendment) Act, 1969, shall be proceeded with and disposed of as if that Act had not been passed.

Explanation.— For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Commission under clause (c) of sub-section (2) of Section 63-A and any person feels aggrieved by such order on the ground that it is not in consonance with such direction, he may appeal under sub-sec. (1) to the State Transport Appellate Tribunal

against such order but not against the direction so issued."

34. Amendment of Section 64-A.

In Section 64-A of the principal Act,—

(a) for the words "State Transport Authority", wherever they occur, the words "State Transport Appellate Tribunal" shall be substituted;

(b) for the words "Regional Transport Authority", wherever they occur, the words "State Transport Authority or Regional Transport Authority" shall be substituted;

(c) after the words "as it deems fit", the words "and every such order shall be final" shall be inserted.

35. Amendment of Section 65.

In Section 65 of the principal Act, in sub-section (1).—

(a) in clause (b), for the words "nine hours", the words "eight hours" shall be substituted;

(b) in clause (c), for the words "fifty-four hours", the words "forty-eight hours" shall be substituted.

36. Insertion of new Section 66-A.

After Section 66 of the principal Act, the following section shall be inserted, namely:—

Agent or canvasser to obtain licence.
"66-A (1) No person shall engage himself—

(i) as an agent or canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or

(ii) as an agent in the business of collecting, forwarding or distributing goods carried by public carriers, unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government.

(2) The conditions referred to in sub-section (1) may include all or any of the following matters, namely:—

(a) the period for which a licence may be granted or renewed;

(b) the fee payable for the issue or renewal of the licence;

(c) the deposit of security—

(i) of a sum not exceeding rupees five thousand in the case of an agent in the business of collecting, forwarding or distributing goods carried by public carriers.

(ii) of a sum not exceeding rupees five hundred in the case of any other agent or canvasser, and the circumstances under which the security may be forfeited.

(d) the provision by the agent of insurance of goods in transit;

(e) the authority by which and the circumstances under which the licence may be suspended or revoked;

(f) such other conditions as may be prescribed by the State Government."

37. Amendment of Section 68.

In Section 68 of the principal Act, in sub-section (2).—

(a) after clause (a), the following clause shall be inserted, namely:—

"(aa) the conduct of business by any such authority in the absence of

any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could be so conducted;";

(b) after clause (c), the following clause shall be inserted, namely:—

"(cc) the manner in which and the time within which every application for a stage carriage permit or a public carrier's permit shall be published, as required by sub-section (3) of Sec. 57, and the circumstances under which and the fees on payment of which copies of such applications may be granted;";

(c) in clause (ww), for the words "forwarding and distributing of", the words "or forwarding and distributing" shall be substituted.

38. Amendment of Section 68-A.

In Section 68-A of the principal Act, in clause (b),—

(a) sub-clause (iii) shall be omitted;

(b) in sub-clause (iv), for the words "the State Government", the words "the Central Government or one or more State Governments, or by the Central Government and one or more State Governments" shall be substituted.

39. Amendment of Section 68-D.

In Section 68-D of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) On the publication of any scheme in the Official Gazette and in not less than one newspaper in regional language circulating in the area or route which is proposed to be covered by such scheme,—

(i) any person, already providing transport facilities by any means along or near the area or route proposed to be covered by the scheme;

(ii) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government; and

(iii) any local authority or police authority within whose jurisdiction any part of area or route proposed to be covered by the scheme lies, may, within thirty days from the date of its publication in the Official Gazette, file objections to it before the State Government"

40. Amendment of Section 68-E.

Section 68-E of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so re-numbered, for the words "proposed to be modified as if the modification proposed were a separate scheme", the following shall be substituted, namely:—

"proposed to be cancelled or modified as if the proposal were a separate scheme:

Provided that the State Transport Undertaking may, with the previous approval of the State Government, modify without following the proce-

dures laid down in Section 68-C and Section 68-D, any such scheme relating to any route or area in respect of which the road transport services are run and operated by the State Transport Undertaking to the complete exclusion of other persons in respect of the following matters, namely:—

(a) increase in the number of vehicles or the number of trips;

(b) change in the type of vehicles without reducing the seating capacity;

(c) extension of the route or area, without reducing the frequency of the service; or

(d) alteration of the time-table without reducing the frequency of the service";

(ii) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), the State Government may, at any time, if it considers necessary in the public interest so to do, modify any scheme published under sub-section (3) of Section 68-D, after giving,—

(i) the State Transport Undertaking, and

(ii) any other person who, in the opinion of the State Government, is likely to be affected by the proposed modification, an opportunity of being heard in respect of the proposed modification."

41. Amendment of Section 68-F.

In Section 68-F of the principal Act,—

(a) in sub-section(1),—

(i) for the words and figures "in the manner specified in Chapter IV", the words "in such manner as may be prescribed by the State Government in this behalf" shall be substituted;

(ii) for the words "Regional Transport Authority", the words "State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case" shall be substituted:

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1-A) Where any scheme has been published by a State Transport Undertaking under Section 68-C that Undertaking may apply for a temporary permit, in respect of any area or route or portion thereof specified in the said scheme, for the period intervening between the date of publication of the scheme and the date of publication of the approved or modified scheme, and where such application is made, the State Transport Authority or the Regional Transport Authority, as the case may be, shall, if it is satisfied that it is necessary to increase, in the public interest, the number of vehicles operating in such area or route or portion thereof, issue the temporary permit prayed for by the State Transport Undertaking.

(1-B) A temporary permit issued in pursuance of the provisions of sub-section (1-A) shall be effective,—

(i) if the scheme is published under sub-section (3) of Section 68-D, until the grant of the permit to the State Transport Undertaking under sub-section (1), or

(ii) if the scheme is not published under sub-section (3) of Section 68-D, until the expiration of the one week from the date on which the order under sub-section (2) of Section 68-D is made.

(1-C) If no application for a temporary permit is made under sub-section (1-A), the State Transport Authority or the Regional Transport Authority, as the case may be, may grant, subject to such conditions as it may think fit, temporary permit to any person in respect of the area or route or portion thereof specified in the scheme and the permit so granted shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route or portion thereof.

(1-D) Save as otherwise provided in sub-section (1-A) or sub-section (1-C), no permit shall be granted or renewed during the period intervening between the date of publication, under Section 68-C of any scheme and the date of publication of the approved or modified scheme, in favour of any person for any class of road transport service in relation to an area or route or portion thereof covered by such scheme:

Provided that where the period of operation of a permit in relation to any area, route or portion thereof specified in a scheme published under Sec 68-C expires after such publication, such permit may be renewed for a limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under sub-section (3) of Section 68-D;”,

(c) in sub-section(2).—

(i) for the words “the Regional Transport Authority”, the words “the State Transport Authority or as the case may be, the Regional Transport Authority concerned” shall be substituted,

(ii) in clause (a), for the words “the renewal of any other permit”, the words “the grant or renewal of any other permit or reject any such application as may be pending” shall be substituted;

(d) in sub-section (3), for the words “the Regional Transport Authority”, the words “the State Transport Authority or any Regional Transport Authority” shall be substituted.

42. Insertion of new Section 68-FF.

After Section 68-F of the principal Act, the following section shall be inserted, namely —

Restriction on grant of permits in respect of a notified area or notified route.

“68-FF. Where a scheme has been published under sub-sec. (3) of Sec. 68-D

in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme:

Provided that where no application for a permit has been made by the State Transport Undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route.”.

43. Amendment of Section 68-G.

In Section 68-G of the principal Act, in sub-section (2), for the words “the Regional Transport Authority”, the words “the State Transport Authority or the Regional Transport Authority, as the case may be,” shall be substituted

44. Insertion of new Section 68-HH.

After Section 68-H of the principal Act, the following section shall be inserted, namely :—

Disposal of articles found in vehicles.

“68-HH. Where any article found in any transport vehicle operated by the State Transport Undertaking is not claimed by its owner within the prescribed period, the State Transport Undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand.”.

45. Amendment of Section 68-I.

In Section 68-I of the principal Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely :—

“(cc) the manner in which application under sub-section (1) of Section 68-F may be made;

(ccc) the period within which the owner may claim an article found left in any transport vehicle under S 68-HH and the manner of sale of such article;”.

46. Insertion of new Section 68-J.

In Chapter IV-A of the principal Act, after Section 68-I, the following section shall be inserted, namely —

Certain powers of State Government exercisable by the Central Government.

“68-J. The powers conferred on the State Government under this Chapter shall, in relation to a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments, be exercisable only by the Central Government in relation to an inter-State route or area”.

47. Insertion of new Section 69-A.

After Section 69 of the principal Act, the following section shall be inserted, namely —

Vehicles to have right hand control.

"69-A. Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature."

48. Amendment of Section 79.

Section 79 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so re-numbered, after the words "driver of a motor vehicle", the words "with a right hand steering control" shall be inserted; and

(ii) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) In the case of a motor vehicle with a left hand steering control, the signal of an intention to turn to the right or left or to stop shall be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle:

Provided that Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this sub-section for the purpose of plying in that area or route."

49. Amendment of Section 80.

To Section 80 of the principal Act, the following proviso shall be added, namely:—

"Provided that Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this section for the purpose of plying in that area or route."

50. Amendment of Section 89.

In Section 89 of the principal Act, after the words "When any person is injured", the words "or any property of a third party is damaged," shall be inserted.

51. Amendment of Section 92.

In Section 92 of the principal Act, in sub-section (1-A), the words "contiguous to it" shall be omitted.

52. Amendment of Section 93.

In Section 93 of the principal Act,—

(i) after clause (b), the following clause shall be inserted, namely:—

"(bb) "property" includes roads, bridges, culverts, causeways, trees, posts and mile-stones;"

(ii) after clause (c), the following clause shall be inserted, namely:—

"(d) "third party" includes the Government."

53. Amendment of Section 94.

In Section 94 of the principal Act, in sub-section (3), for the Explanation, the following Explanation shall be substituted, namely:—

"Explanation.— For the purposes of this sub-section, appropriate Government

means the Central Government or the State Government, as the case may be, and—

(i) in relation to any corporation or company owned by the Central Government or any State Government means the Central Government or that State Government;

(ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;

(iii) in relation to any other State Transport Undertaking or any local authority, means that Government which has control over that Undertaking or authority."

54. Amendment of S. 95.

In Section 95 of the principal Act,—

(a) in sub-section (1),—

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

(ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place;"

(ii) the following Explanation shall be added at the end, namely:—

"Explanation.— For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place;"

(b) in sub-section (2),—

(i) in clause (a), for the word "twenty", the word "fifty" shall be substituted;

(ii) for clauses (b) and (c), the following clauses shall be substituted, namely:—

"(b) where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment,—

(i) in respect of persons other than passengers carried for hire or reward, a limit of fifty thousand rupees in all;

(ii) in respect of passengers,—

(1) a limit of fifty thousand rupees in all where the vehicle is registered to carry not more than thirty passengers;

(2) a limit of seventy-five thousand rupees in all where the vehicle is registered to carry more than thirty but not more than sixty passengers;

(3) a limit of one lakh rupees in all where the vehicle is registered to carry more than sixty passengers; and

(4) subject to the limits aforesaid, ten thousand rupees for each individual passenger where the vehicle is a motor cab, and five thousand rupees for each individual passenger in any other case;

(c) save as provided in clause (d), where the vehicle is a vehicle of any other class, the amount of liability incurred;

(d) irrespective of the class of the vehicle, a limit of rupees two thousand in all in respect of damage to any property of a third party."

55. Insertion of new Section 95-AA.

After Section 95-A of the principal Act, the following section shall be inserted, namely:—

Security to be deposited by insurers.

"95-AA. (1) In addition to the deposits required to be made under Section 7 of the Insurance Act, 1938, every insurer who is competent to issue a policy of insurance in accordance with this Chapter, shall deposit and keep deposited with the Reserve Bank of India or the State Bank of India, a sum of rupees thirty thousand as security for the due discharge of any liability covered by a policy of insurance issued in accordance with the provisions of this Chapter.

(2) Any sum deposited under sub-section (1) shall be deemed to be part of the assets of the insurer but shall not be susceptible of any assignment or charge nor shall it be liable to any attachment in execution of any decree except for meeting the claims arising in respect of a policy of insurance issued after complying with the requirements of this Chapter.

(3) Where, on an application made to it in this behalf, any Court or Claims Tribunal, which has made an award for compensation under this Act, is satisfied—

(i) that the applicant has exhausted all other remedies open to him to recover his dues from the insurer, or,

(ii) that the award has been made after the insurer has gone into liquidation,

it may direct the payment of such compensation from out of the sum deposited under sub-section (1):

Provided that in the case of the insolvency of the insurer—

(a) such payment shall not be made until all claims under this Act against the insurer have been settled; and

(b) payment so made shall be proportionate to the amount of compensation allowed in each case."

56. Insertion of new Section 103-A.

After Section 103 of the principal Act, the following section shall be inserted, namely:—

Transfer of certificate of insurance.

"103-A. (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter proposes to transfer to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, he may apply in the prescribed form

to the insurer for the transfer of the certificate of insurance and the policy described in the certificate in favour of the person to whom the motor vehicle is proposed to be transferred, and if within fifteen days of the receipt of such application by the insurer, the insurer has not intimated the insured and such other person his refusal to transfer the certificate and the policy to the other person, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

(2) The insurer to whom any application has been made under sub-section (1) may refuse to transfer to the other person the certificate of insurance and the policy described in that certificate if he considers it necessary so to do, having regard to—

(a) the previous conduct of the other person,—

(i) as a driver of motor vehicles; or

(ii) as a holder of the policy of insurance in respect of any motor vehicle; or

(b) any conditions which may have been imposed in relation to any such policy held by the applicant; or

(c) the rejection of any proposal made by such other person for the issue of a policy of insurance in respect of any motor vehicle owned or possessed by him.

(3) Where the insurer has refused to transfer, in favour of the person to whom the motor vehicle has been transferred, the certificate of insurance and the policy described in that certificate, he shall refund to such transferee the amount, if any, which, under the terms of the policy, he would have had to refund to the insured for the unexpired term of such policy."

57. Amendment of Section 110.

In Section 110 of the principal Act, in sub-section (1), for the words "motor vehicles", the following words shall be substituted, namely:—

"Motor vehicles, or damages to any property of a third party so arising, or both:

Provided that where such claim includes a claim for compensation in respect of damage to property exceeding rupees two thousand, the claimant may, at his option, refer the claim to a civil Court for adjudication, and where a reference is so made, the Claims Tribunal shall have no jurisdiction to entertain any question relating to such claim."

58. Amendment of Section 110-A.

In Section 110-A of the principal Act,—

(a) in sub-section (1),—

(i) in clause (b), for the words "by the legal representatives", the words "by all or any of the legal representatives" shall be substituted;

(ii) in clause (c), for the words "or the legal representatives", the words "or all or any of the legal representatives" shall be substituted;

(iii) the following proviso shall be inserted at the end, namely :—

"Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application;"

(b) in sub-section (3), for the words "sixty days", wherever they occur, the words "six months" shall be substituted.

59. Insertion of new Section 110-AA.

After Section 110-A of the principal Act, the following section shall be inserted, namely :—

Option regarding claims for compensation in certain cases.

"110-AA. Notwithstanding anything contained in the Workmen's Compensation Act, 1923, where the death of or bodily injury to any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may claim such compensation under either of those Acts but not under both."

60. Amendment of Section 110-B.

In Section 110-B of the principal Act, after the words "the insurer", the words "or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be," shall be inserted.

61. Amendment of Section 110-C.

In Section 110-C of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

"(2-A) Where in the course of any inquiry, the Claims Tribunal is satisfied that—

(i) there is collusion between the person making the claim and the person against whom the claim is made, or

(ii) the person against whom the claim is made has failed to contest the claim, 'it may, for reasons to be recorded by it in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.'"

62. Insertion of new Sections 110-CC and 110-CCC.

After Section 110-C of the principal Act, the following sections shall be inserted, namely :—

Award of interest where any claim is allowed.

"110-CC. Where any Court or Claims Tribunal allows a claim for compensation made under this Chapter, such Court or Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such

rate and from, such date not earlier than the date of making the claim as it may specify in this behalf.

Award of compensatory costs in certain cases.

110-CCC. (1) Any Court or Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded by it in writing that—

(i) the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or

(ii) any party or insurer has put forward a false or vexatious claim or defence,

such Court or Tribunal may make an order for the payment, by the party who is guilty of misrepresentation or by whom such claim or defence has been put forward, of special costs by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has been put forward.

(2) No Court or Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding rupees one thousand.

(3) No person or insurer against whom an order has been made under this section shall, by reason thereof be exempted from any criminal liability in respect of such misrepresentation, claim or defence as is referred to in sub-section (1).

(4) Any amount awarded by way of compensation under this section in respect of any misrepresentation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such misrepresentation, claim or defence."

63. Amendment of Section 110-E.

In Section 110-E of the principal Act, for the words "an insurer", the words "any person" shall be substituted.

64. Amendment of Section 111-A.

In Section 111-A of the principal Act, in clause (d), after the words "the manner in which", the words and brackets "and the fees (if any) on payment of which", shall be inserted.

65. Insertion of new Section 113-A.

After Section 113 of the principal Act, the following section shall be inserted, namely :—

Allowing unauthorised persons to drive vehicles.

"113-A. Whoever, being the owner or person in charge of a motor vehicle, causes, or permits, any person who does not satisfy the provisions of Section 3 or Section 4, to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both."

66. Amendment of Section 115.

In Section 115 of the principal Act,—
(i) in sub-section (1), for the words "one hundred rupees", the following words shall be substituted, namely :—

"two hundred rupees. or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees";

(ii) in sub-section (2), for the words "two hundred rupees" the following words shall be substituted, namely:—
"three hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees".

67. Amendment of Section 123.

In Section 123 of the principal Act, in sub-section (1),—

(i) after the words "for which the vehicle may be used", the words, "or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle" shall be inserted;

(ii) for the words "a subsequent offence if committed within three years of the commission of a previous similar offence", the words "any second or subsequent offence" shall be substituted;

(iii) in the proviso, after the words "any such", the words "second or" shall be inserted.

68. Insertion of new Section 123-A.

After Section 123 of the principal Act, the following section shall be inserted, namely:—

Punishment of agents and canvassers without proper authority.

"123-A. Whoever engages himself as an agent or canvasser in contravention of the provisions of Section 66-A or any rules made thereunder shall be punishable for the first offence with fine which may extend to one thousand rupees and for any second or subsequent offence with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both."

Provided that no Court shall, except for reasons to be recorded by it in writing, impose a fine of less than five hundred rupees for any such second or subsequent offence."

69. Amendment of Section 124.

In Section 124 of the principal Act, for the words and figures "Section 72 or of the conditions of any permit issued thereunder, or in contravention of any prohibition or restriction imposed under Section 74 shall be punishable", the words and figures "Section 72 or of the conditions prescribed under that section, or in contravention of any prohibition or restriction imposed under Section 72 or Section 74, shall be punishable" shall be substituted.

70. Amendment of Section 129-A.

To Section 129-A of the principal Act, the following proviso shall be added, namely—

"Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used without the permit required by sub-

section (1) of Section 42, he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgment in respect thereof."

71. Amendment of Section 130.

In Section 130 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Court taking cognizance of an offence under this Act,—

(i) may, if the offence is an offence punishable with imprisonment under this Act, and

(ii) shall, in any other case, state upon the summons to be served on the accused person that he—

(a) may appear by pleader and not in person, or

(b) may, by a specified date prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the court such sum (not exceeding the maximum fine that may be imposed for the offence) as the Court may specify :

Provided that nothing in this sub-section shall apply to any offence specified in Part A of the Fifth Schedule."

72. Insertion of new Section 131-A.

After Section 131 of the principal Act, the following section shall be inserted, namely:—

Courts to send intimations about conviction.

"131-A Every Court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used shall send intimation to—

(a) the licensing authority which issued the driving licence, and

(b) the licensing authority by whom the licence was last renewed, and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence, the punishment awarded for the same and such other particulars as may be prescribed."

73. Insertion of new Section 132-A.

In Chapter X of the principal Act, before Section 133, the following section shall be inserted, namely:—

Power to levy fee.

"132-A. Any rule which the Central Government or the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for the levy of such fees in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, counter-signatures authorisation, supply of statistics or copies of documents or orders and for any other purpose or matter involving the rendering of any service by the officers or authorities under this Act or any rule made thereunder as may be considered necessary :

Provided that the Government may, if it considers necessary so to do, in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full."

74. Amendment of Section 133-A.

In Section 133-A of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:—

"(4) In addition to the powers that may be conferred on any officer of the Motor Vehicles Department under sub-section (3), such Officer, as may be empowered by the State Government in this behalf shall also have the power to,—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed;

(b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who, he has reason to believe, has committed an offence under this Act or in which a motor vehicle in respect of which such offence has been committed is kept:

Provided that—

(i) any such search without a warrant shall be made only by an officer of the rank of a gazetted officer;

(ii) where the offence is punishable with fine only the search shall not be made after sunset and before sunrise;

(iii) where the search is made without a warrant, the gazetted officer concerned shall record in writing the grounds for not obtaining a warrant and report to his immediate superior that such search has been made;

(c) examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed;

(e) launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any court;

(f) exercise such other powers as may be prescribed.

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(5) The provisions of the Code of Criminal Procedure, 1898 shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure under the authority of any warrant issued under Section 98 of that Code."

75. Amendment of section 134.

In Section 134 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), if an application made by a person for the renewal of permit has been rejected by the original authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of."

76. Insertion of new Section 135.

After section 134 of the principal Act, the following section shall be inserted, namely:—

Repeal and saving.

"135. (1) The enactments specified in the Twelfth Schedule are hereby repealed to the extent mentioned therein.

(2) Notwithstanding the repeal of any enactment by this section,—

(a) any notification, rule, regulation, order or notice issued, or any appointment or declaration made, or any licence, permission or exemption granted, or any confiscation made, or any penalty or fine imposed, or any forfeiture, cancellation or discharge of any bond ordered, or any other thing done, or any other action taken under the repealed enactment, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act;

(b) any document referring to any enactment hereby repealed, or to any provision thereof, shall be construed as referring to this Act or to the corresponding provision of this Act.

(3) Any penalty payable under any repealed enactment may be recovered in the manner provided by or under this Act but without prejudice to any action already taken for the recovery of such penalty under the repealed enactment

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897, with regard to the effect of repeals."

77. Amendment of First Schedule.

In the First Schedule to the principal Act,—

(a) in Form A, in Part III,—

(i) in paragraph (b), after the words "with each eye", the following brackets and words shall be inserted, namely:—

"(or if you have held a licence to drive a motor vehicle for a period of not less than five years and if you have lost sight of one eye after the said period of five years and if the application is for driving a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye)";

(ii) in paragraph (f), after the words "unable to hear", the brackets and

words "(and if the application is for driving a light motor vehicle, with or without hearing aid)" shall be inserted;

(b) in Form AA, for the words "I hereby", the following words "I, Shri/Shrimati/Kumari hereby" shall be substituted;

(c) in Form B.—

(i) below the heading "Form of application for the renewal of driving licence", the figures "1" shall be inserted;

(ii) for the words "I hereby apply", the words "I, Shri/Shrimati/Kumari. hereby apply" shall be substituted;

(iii) for the words beginning with "I hereby declare" and ending with "danger to the public", the following figures, words, brackets and letters shall be substituted, namely:—

II

Declaration, as to physical fitness of the applicant

(The applicant is required to answer "yes" or "no" in the space provided opposite each question.)

(a) Do you suffer from epilepsy, or from sudden attacks of disability, giddiness or fainting?

(b) Are you able to distinguish with each eye (or if you have held a licence to drive a motor vehicle for a period of not less than five years and if you have lost sight of one eye after the said period of five years and if the application is for driving a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye) at a distance of 25 metres in good day light (with glasses, if worn), a motor car number plate containing seven letters and figures?

(c) Have you lost either hand or foot or are you suffering from any defect in movement, control or muscular power of either arm or leg?

(d) Can you readily distinguish pigimentary colours red and green?

(e) Do you suffer from night blindness?

(f) Are you so deaf as to be unable to hear (and if you are an applicant for the renewal of a driving licence in respect of light motor vehicle with or without hearing-aid) the ordinary sound signals?

(g) Do you suffer from any other disease or disability likely to cause your driving of a motor vehicle to be a source of danger to the public?

I declare that to the best of my knowledge and belief, the particulars given in Section I and the declaration made in Section II here of are true.

Note 1.— An applicant who answers "yes" to any of the questions (a), (c), (e), (f) and (g) or "no" to either of the questions (b) and (d) should amplify his answer with full particulars and may be required to give further information relating thereto.

Note 2.— An applicant who answers "yes" to questions (b), (c) and (d) in the declaration and "no" to the other questions may claim to be subjected to

a test as to his competency to drive vehicles of a specified class or classes.

Note 3.— An application for renewal of a driving licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, shall be accompanied by a medical certificate in Form C.;

(d) in Form C, in sub-paragraph (d) of paragraph 4, after the word "hearing", the brackets and words "(and in the case of an applicant for a licence to drive a light motor vehicle, with or without hearing-aid)" shall be inserted;

(e) in Form D,—

(i) for the expression "son/daughter of (father's name)", the expression "wife/son/daughter of" shall be substituted;

(ii) for the words "He is", the expression "He/She is" shall be substituted;

(f) in Form E,—

(i) in item 1, for the words "or husband", the words and brackets "and husband (in the case of a married woman)" shall be substituted;

(ii) after item 7, the following item shall be inserted, namely:—

"7A. Cubic capacity";

(iii) after item 10, the following item shall be inserted, namely:—

"10A. Fuel used in the engine.";

(iv) for item 15, the following item shall be substituted, namely:—

"15. Maximum laden weight—

(a) as certified by the manufacturer Kgms.

(b) to be registered Kgms.";

(v) the Explanation shall be omitted;

(vi) for the Note, the following Note shall be substituted, namely:—

"Note.— The motor vehicle above described is —

(i) subject to hire-purchase agreement with;

(ii) subject to a hypothecation in favour of;

(iii) not held under hire-purchase agreement or subject to any mortgage.

(Strike out whatever is not applicable and, if the motor vehicle is subject to hire-purchase agreement or hypothecation, obtain the signature of the hire-purchase company or the mortgagee, as the case may be.);

(vii) for the words, "Signature of the Hire Purchase Company.", the following expression shall be substituted:—

Hire-purchase Company.;"

"Signature of _____
Mortgagee.

(g) in Form G,—

(i) in line 8, for the words "or husband", the words and brackets "and husband (in the case of a married woman)" shall be substituted;

(ii) after item 7, the following item shall be inserted, namely:—

"7A. Fuel used in the engine.";

(iii) after item 8, the following item shall be inserted, namely:—

"8A. Cubic capacity";

(iv) for item 12, the following item shall be substituted, namely:—

"12. Maximum laden weight —

(a) as certified by the manufacturer Kgms.

(b) as registered Kgms.";

(v) for the Note, the following Note shall be substituted, namely:—

"Note.— The motor vehicle above described is —

(i) subject to a hire-purchase agreement with;

(ii) subject to a hypothecation in favour of";

78. Amendment of Second Schedule.

In the Second Schedule to the principal Act,—

(i) in paragraph 4, after the words "with each eye", the following brackets and words shall be inserted, namely:—

"(or in the case of a person who has held a licence to drive a motor vehicle for a period of not less than five years and lost sight of one eye after the said period of five years and has applied for a licence to drive a light motor vehicle, other than a transport vehicle, with one eye)";

(ii) in paragraph 5, after the word "hearing", the words "or in the case of a person who has applied for a licence to drive a light motor vehicle, with or without hearing-aid" shall be inserted.

79. Substitution of Third Schedule.

"For the Third Schedule to the principal Act, the following Schedule shall be substituted, namely:—

THE THIRD SCHEDULE

[See Sections 7 (6) and 17 (6)]

Test Of Competence To Drive

PART I

The candidate shall satisfy the person conducting the test that he is able to—

(1) start the engine of the vehicle;

(2) move away straight ahead and at an angle, while at the same time engaging the first and intermediate gears until the top gear is reached;

(3) change down to the lower gear quickly from the top gear when the traffic conditions warrant such change;

(4) overtake, allow to be overtaken, meet or cover the path of other vehicles and take an appropriate course with proper caution giving appropriate signals;

(5) turn right and left corners correctly;

(6) stop the vehicle in an emergency and normally and in the latter case bring it to rest at an appropriate course of the road;

(7) drive the vehicle backwards and whilst so doing enter a limited opening to the right and left;

(8) cause the vehicle to face in the opposite direction by means of forward and reverse gears;

(9) give by hand and by mechanical means (if fitted to the vehicle), or, in

the case of a disabled driver for whom it is impracticable or undesirable to give signals by hand, by mechanical means in a clear and unmistakable manner, appropriate signals at appropriate times to indicate his intended actions;

(10) act correctly and promptly on all signals given by traffic signs, automatic traffic lights, traffic police or other authorised persons and take appropriate notice of signs given by other road users;

(11) demonstrate general control of the vehicle by confident steering and smooth gear changing and braking as and when necessary;

(12) to change quickly to lower gear while driving down-hill;

(13) to stop and re-start the vehicle on a steep upward incline making proper use of the handbrake or of the throttle and the footbrake without any rolling back.

Note. (i) — Requirements (7) and (8) are not applicable in the case of a motor cycle or a tri-cycle not equipped with means for reversing;

(ii) Requirements (7), (8) and (9) are not applicable in the case of invalid carriages.

PART II

The candidate shall satisfy the person conducting the test that he is —

(1) cognizant of the provisions of Sections 81, 82, 83, 84 and 85 and of the Tenth Schedule;

(2) conversant with the general traffic rules and regulations relating to the use of lights, speeding, parking, stopping the vehicle in an emergency, accidents, production of documents, right of way, controlled and uncontrolled pedestrian crossings, meaning of light signals (amber, red and green), overtaking, taking a "U" turn, silence zones, one-way traffic, driving on channelised roads and other relevant matters;

(3) aware of the meaning of the traffic signs specified in the Ninth Schedule;

(4) not so deaf as to be unable to hear (or in the case of a person who has applied for a licence to drive a light motor vehicle with or without hearing-aid), the ordinary sound signals (This shall not apply to a person who has produced a medical certificate in Form C.);

(5) able to distinguish with each eye (or in the case of a person who has held a licence to drive a motor vehicle for a period of not less than five years and lost sight of one eye after the said period of five years and has applied for a licence to drive a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye) at a distance of 25 meters in good day light (with glasses if worn) a motor car number plate containing seven

letters and figures. (This shall not apply to a person who has produced a medical certificate in Form C.)'

80. Substitution of Sixth Schedule.
For the Sixth Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE SIXTH SCHEDULE
[See Sections 24 (3) and 29 (2)]

Registration Marks

One of the groups of letters specified in the second column followed by any other letter shall be used as the registration mark for a vehicle in the State specified in the first column.

1	2
Andhra Pradesh AP, AA	Tamil Nadu TN, TM
Assam AS	Uttar Pradesh UP, US, UT
Bihar BR, BH	West Bengal WB, WG, WM
Gujarat GJ, GT	Chandigarh CG, CH
Haryana HR, HY	Delhi DL, DH
Jammu and Kashmir JK	Goa, Daman and Diu GD
Kerala KL	Himachal Pradesh HI, HP
Madhya Pradesh MP, CP	Manipur MN
Maharashtra MR, MH	Pondicherry PY, PD
Mysore MY, ME	Tripura TR
Nagaland NL	Andaman and Nicobar Islands AN
Orissa OR, OS	Laccadive, Minicoy and Amindivi Islands LC, MA
Punjab PN, PU	
Rajasthan RJ, RS	

Note 1.— These letters shall be followed by not more than four figures, and the letters and figures shall be shown —

1. In the case of temporary vehicles. In black on a white ground.
2. In the case of temporary registrations (Section 25). In red on a yellow ground.
3. In the case of registration marks allotted to dealers [Section 41 (2) (k)]. In white on a red ground.
4. In other cases. In white on a black ground.

Note 2.—In respect of the Maharashtra State, the letters BM, BY may continue to be used in respect of vehicles which were registered before the 1st October, 1961."

81. Substitution of Eighth Schedule.

For the Eighth Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"The EIGHTH SCHEDULE
(See Section 71)

Limits Of Speed For Motor Vehicles

Class of vehicle	Maximum speed per hour in Kilometres
(1) If all the wheels of the vehicle are fitted with pneumatic tyres and the vehicle is not drawing a trailer :—	
(a) if the vehicle is a light motor vehicle or a motor cycle	No limit.
(b) if the vehicle is a medium or heavy passenger motor vehicle	60
(c) if the vehicle is a medium or heavy goods motor vehicle	60
(2) If the vehicle is an articulated vehicle (all the wheels of which are fitted with pneumatic tyres) which is a heavy motor vehicle	50.
(3) If the vehicle is drawing not more than one trailer (or in the case of artillery equipment, not more than two trailers) and all the wheels of that vehicle and the trailer are fitted with pneumatic tyres :—	
(a) if the vehicle is a light motor vehicle and the trailer being two-wheeled has a laden weight not exceeding 800 kgs.	60'
(b) if the vehicle is a light motor vehicle and the trailer has more than two wheels or a laden weight exceeding 800 kgs.	50
(c) if the vehicle is a medium motor vehicle	50
(d) if the vehicle is a heavy motor vehicle	40
(e) if the vehicle is a heavy motor vehicle used by the fire brigade	50
(4) Any case not covered by entry (1), (2) or (3)	30."

82. Insertion of new Schedule.

After the Eleventh Schedule to the principal Act, the following Schedule shall be inserted, namely:—

"THE TWELFTH SCHEDULE

(See Section 135)

Repeal Of Certain Enactments

Serial No.	Short title	Extent of repeal
1	2	3
1.	Motor Vehicles (Andhra Pradesh) (Andhra Area) Amendment Act, 1948 (20 of 1948)	The whole except sections 1 and 12.
2.	Motor Vehicles (Andhra Pradesh) (Telangana Area) Amendment Act, 1956 (45 of 1956)	The whole.
3.	Assam State Road Transport Act, 1954 (30 of 1954)	The whole.
4.	Assam State Road Transport (Amendment) Act, 1955 (18 of 1955)	The whole.
5.	Motor Vehicles (Bihar Amendment) Act, 1949 (27 of 1950)	The whole except sections 1 and 3.
6.	Motor Vehicles (Bihar Amendment) Act, 1953 (1 of 1954)	The whole.
7.	Motor Vehicles (Madras Amendment) Act, 1948 as applicable to Kerala (20 of 1948)	The whole except sections 1 and 3.
8.	Motor Vehicles (Madras Amendment) Act, 1949 as applicable to Kerala (44 of 1949)	The whole.
9.	Motor Vehicles (Madras Amendment) Act, 1954 as applicable to Kerala (39 of 1954)	The whole.
10.	Motor Vehicles (Madras Amendment) Act, 1948 (20 of 1948)	The whole except sections 1, 3 and 5
11.	Motor Vehicles (Madras Amendment) Act, 1949 (44 of 1949)	The whole.
12.	Motor Vehicles (Madras Amendment) Act, 1954 (39 of 1954)	The whole except sections 1 and 2.
13.	Motor Vehicles (Madras Amendment) Act, 1957 (19 of 1957)	The whole.
14.	Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Madhya Pradesh (3 of 1948)	The whole.
15.	Motor Vehicles (Bombay Amendment) Act, 1947 (7 of 1947)	The whole.
16.	Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Maharashtra (3 of 1947)	The whole.
17.	Motor Vehicles (Bombay Amendment) Act, 1954 (31 of 1954)	The whole.
18.	Motor Vehicles (Hyderabad Amendment) Act, 1956 as applicable to Maharashtra (55 of 1956)	The whole.
19.	Motor Vehicles (Mysore Amendment) Act, 1953 (14 of 1953)	The whole.
20.	Motor Vehicles (Mysore Amendment) Act, 1955 (16 of 1955)	The whole.
21.	Motor Vehicles (Bombay Amendment) Act, 1947 as applicable to Mysore (7 of 1947)	The whole.
22.	Motor Vehicles (Bombay Amendment) Act, 1954 as applicable to Mysore (31 of 1954)	The whole.
23.	Motor Vehicles (Hyderabad Amendment) Act, 1956 as applicable to Mysore (45 of 1956)	The whole.
24.	Motor Vehicles (Madras Amendment) Act, 1948 as applicable to Mysore (20 of 1948)	The whole.
25.	Motor Vehicles (Madras Amendment) Act, 1949 as applicable to Mysore (45 of 1949)	The whole.
26.	Orissa Motor Vehicles (Amendment) Act, 1948 (1 of 1949)	The whole.
27.	Orissa Motor Vehicles (Regulation of State Carriage and Public Carrier's Services) Act, 1947 (36 of 1947)	The whole.
28.	Orissa Motor Vehicles (Regulation of State Carriage and Public Carrier's Services) Amendment Act, 1951 (41 of 1951)	The whole.
29.	Motor Vehicles (East Punjab Amendment) Act, 1948 (28 of 1948)	The whole except sections 1, 3, 4 and 10.
30.	Motor Vehicles (United Provinces Amendment) Act, 1948 (11 of 1948)	The whole.
31.	Motor Vehicles (Uttar Pradesh Amendment) Act, 1953 (28 of 1953)	The whole.
32.	Uttar Pradesh Road Transport Services (Development) Act, 1955 (9 of 1955)	The whole except sections 1 and 14.

1	2	3
33.	Motor Vehicles (West Bengal Amendment) Act, 1951 (19 of 1951)...	The whole.
34.	Motor Vehicles (Delhi Amendment) Act, 1954 (5 of 1954)	... The whole.
35.	Himachal Pradesh State Road Transport Act, 1953 (5 of 1954)	... The whole.

THE CONSTITUTION (TWENTY-THIRD AMENDMENT) ACT, 1969 [*]

[23rd January, 1970]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. Short title.

This Act may be called the Constitution (Twenty-third Amendment) Act 1969.

2. Amendment of article 330.

In article 330 of the Constitution, in sub-clause (b) of clause (1), for the words "except the Scheduled Tribes in the tribal areas of Assam", the words "except the Scheduled Tribes in the tribal areas of Assam and in Nagaland" shall be substituted.

* Received the assent of the President on 23-1-1970. Act published in Gaz. of Ind., 23-1-1970, Pt. II-S. 1, Ext. p. 1.

For Statement of Objects and Reasons see Gaz. of Ind. 21-8-1969, Pt. II-S. 2, Ext. p. 831.

3. Amendment of article 332.

In article 332 of the Constitution, in clause (1), for the words "except the Scheduled Tribes in the tribal areas of Assam", the words "except the Scheduled Tribes in the tribal areas of Assam and in Nagaland" shall be substituted.

4. Amendment of article 333.

(1) In article 333 of the Constitution, for the words "nominate such number of members of the community to the Assembly as he considers appropriate", the words "nominate one member of that community to the Assembly" shall be substituted.

(2) Nothing contained in sub-section (1) shall affect any representation of the Anglo-Indian community in the Legislative Assembly of any State existing at the commencement of this Act until the dissolution of that Assembly.

5. Amendment of article 334.

In article 334 of the Constitution, for the words "twenty years", the words "thirty years" shall be substituted.

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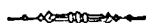
[Vol. 56]

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INDEX OF ARTICLES IN THE A. I. R. AND OTHER JOURNALS

ARTICLES

Accident

—Accident prevention in manufacturing industries—By B. J. Ramrekhiyani —10 I L J 1509

Requisition

—Law of requisitioning of property—By P. Kodandramayye —(1969) II A L J (Jour) 1

Bankers and Customers

—Joint bank accounts with volunteers—M. C. Cullity —85 L Q R 530

Banking

—Bank Nationalisation and afterwards—By S. N. Gupta —1969 M L R (Jour) 24

—Bank Nationalisation and Loans —By V. N. Singh —(1969) 2 Comp L J (Jour) 49

Bequests

—The lapse of charitable bequests —By J. B. E. Hutton —32 Mad L R 283

Bonus

—Bonus issue and procedures—By D. N. Sharma —(1969) 2 Comp L J (Jour) 1

—Disputes over quantum of bonus on the increase —5 D C I L L 17

Children

—The battered child—Does Britain need a Reporting Law?—By Jean Stark —1969 Public Law 48

—The welfare principle and public responsibility towards children in modern law—By Paras Diwan —Law, 1969, p. 147

Civil rights

—Right against arbitrary arrest and detention under Art. 9 of the International Covenant on Civil and Political Rights—By B. P. Srivastav —11 (1969) J I L I 29

Civil Services

—Control and discipline of civil servants —Om Prakash Motiwal —(1969) II S C J (Jour) 57

Commerce

—The duty of business to serve the public—Analogy to the Inkeeper's obligation—By Henry L. Molot —46 Can B R 612

Companies

—Abolition of managing agency and consequential problems —By M. Swaminathan —Law, 1969 (Jour), p. 185

—Abolition of managing agency system and alternative forms of management —VII Comp N & N 39

—Alternative forms of management on abolition of managing agency system—By M. C. Bhandari —(1969-70) VII Comp N & N 893

—An international comparison of tax incentives to corporate investment —By Ved P. Gandhi —VII (1969-70) Comp N & N 929

Companies (contd.)

—A plea to amend law relating to Managing Directors (Comparative Study of Indian & English Law)—By Surendra Nath —(1969) 1 Com L J (Jour) 1

—A study of S. 560 of the Companies Act, 1956—N. Krishnamoorthy —VII (1969) Comp N & N 351

—Bonus shares—By S. Krishnamurthy —(1969) 1 Comp L J (Jour) 17

—Capital Issues Control in India —By G. Balakrishnan —(1969) VII Comp N & N 429

—Class rights of share-holders: Meaning and variation—By Surendra Nath —(1969) Comp L J 64

—Company Regulation in Britain & U. S. A.—By D. McComb —(1969) VII Comp N & N 845

—Concept of limited liability under the Companies Act, 1956 —By N. Krishnamurthy —VII Comp N & N 1043

—Constitutional Status of Government Companies—Tahir Mahmood —(1969) 1 Comp L J (Jour) 14

—Corporate management for social good —M. C. Bhandari —VI Comp N & N 1695

—Cost audit and propriety—Audit under the Companies Act—By Dr. N. L. Hingorani and by S. Venkataraman —(1969) 2 Comp L J (Jour) 71, 104;

—(1969) VII Comp N & N 483

—The desirability of abolition of Managing Agencies—By C. C. Desai —(1969) 1 Comp L J (Jour) 47

—Director's powers and Control of company in general meeting—Note based on Banford v. Banford, 1968-2 All E R 6551 —(1968) II S C A (Jour) 33

—Explanatory statement under S. 173 of the Companies Act, 1956 —By M. C. Bhandari —(1969) 1 Comp L J (Jour) 68

—Government control over appointment of Company directors —Some aspects —By N. K. Sen Gupta —(1969-70) VII Comp N & N 643

—How the amended Banking Law affects Banking Companies —By A. Ramaiya —(1969) 1 Comp L J (Jour) 51

—Independent object clauses of companies—Editorial note —73 Cal W N (Jour) 47

—Inspection of Books of accounts by Directors—P. B. Menon —VI Comp N & N 1639

—Investment criteria in Public and Private sector Industries—D. S. Ganguly —(1969-70) VII Comp N & N 88

—The juridical basis of share-holders' rights created by the Memorandum & Articles of Association —By Surendra Nath —(1969) 2 Comp L J 53

—Liability of company directors for negligence—By M. J. Trebilock —32 Mod L R 499

—Management by objectives—E. A. Johns —(1969-70) VII Comp N & N 869

—Meaning of the expression 'oppressive' under S. 397 of the Companies Act, 1956 —By R. B. Srivastav —(1969) 2 Comp L J (Jour) 77

—Men, machine and management under Gandhian concept —By M. C. Bhandari —VII Comp N & N 34

Companies (contd.)

- Minority oppression — Corporate control—By K. R. Dixit —8 J I L I (1967) 222
- Monopolies and restrictive trade practices—By Man Mohan Singh —(1969) VII Comp N & N 453
- Need for developing uniformity in company accounts—S. L. Kohli —VII Comp N & N 61
- The omnibus clause of penal liability under the Companies Act —By Tahir Mahmood —(1969) 1 Comp L J (Jour) 63
- Principles of criminal procedure under the Companies Act—By Tahir Mahmood —(1969) 1 Comp L J (Jour) 76
- Project financing and capital issues by Companies with and without Government assistance during the year 1967-68 —(1969) Comp N & N 518
- Recommendations of the A. R. C. under the Companies Act —By N. Krishnamurthy —(1969) 2 Comp L J (Jour) 7
- Reduction of share capital of a limited Company—By Surendra Nath (Jan) 4; (Feb) 18
- The role of a Company secretary —By C. C. Sutar and by Raj K. Nigam; R. S. Thirani —(1969) 1 Comp L J (Jour) 83; (1969) 2 Comp L J (Jour) 19; 122
- Self-incrimination into and investigation into the affairs of a company—C. P. Pandey —(1969) 2 Comp L J (Jour) 33
- Shareholders' contracts —Contractual relationship created between members & Company by the Memorandum & Articles of Association —B. Surendra Nath —1969 S C D (Jour) 53
- Shortcomings of the Companies Act—By K. Venkoba Rao —(1969) 1 Comp L J (Jour) 111
- Significance of Chairmen's speech—By K. M. Upadhyay —(1969-70) VII Comp N & N 841
- Sole Selling Agencies under the Companies Act—By S. Padmanabham —Law 1969, 211
- Some aspects relating to accounts, cost accounts and cost audit under the Companies Act, 1956—T. J. Gondhalekar —(1969-70) VII Comp. N & N 923
- Sources of borrowing powers of companies in India and U.S.A.—By Surendra Nath —8 J I L I (1967) 184
- Why management consulting? —By J. F. Walts —(1969-70) VII Comp N & N 707

Constitutional Law

- The abolition of the privy purse and its constitutionality—By R. K. Mohapatra —(1969) XXXV C L J (Jour) 17
- Act of State in a 'protectorate' —In retrospect—By L. L. Kato —1969 Public Law 219
- Act of State : Need for Reappraisal—By S. B. Wad —(May) 43
- Administrative necessity and abuse of power—By J. Bennet Miller —1968 Public Law 330
- Adultery — Discrimination in law —Editorial —73 C W N (Jour) 49
- A knocking at closed doors of a Court? —Act of State and Acquired Rights —By D. R. Meghe —1969 Mah L J (Jour) 165
- Amendability of fundamental rights; Golok Nath and the proposed constitutional amendment—By V. P. Sathe —(1969) I S C J (Jour) 33

Constitutional Law (contd.)

- Amending the fundamental rights in the Indian Constitution —By M. K. Nambyar —Law 1969, p.
- Another look at unconstitutional conditions—Editorial —117 Uni Penn L R
- Can Parliament amend fundamental rights—By N. Ram —Law 1969
- Can the President assent to a State Act which his previously received the Governor's assent? —A note based on A I R 1965 S C 764—By K. N. Goyal —8 J I L I (1966)
- Can we afford liberty? —Arther J. Goldberg —117 Uni Penn L R
- Centre and States —Editorial —73 C W N (Jour)
- Centre—State Governmental relations in the Indian Federal System —By Alice Jacob —(1968) 10 J I L I
- Citizen and the Rule of Law —K. Chennabasappa —(1969) 1 Mys L J (Jour)
- Constitutional adjudication without a constitution—Case of Israel—By: Jeffery M. Albert —82 H L R
- Constitutional paramountcy of Fundamental Rights : Methods of enforcement —By U. N. Gupta —(1969) 1 S C J (Jour)
- Constitutional Position of the Indian President—By Ranganatha Chari —(Dec)
- Constitutionally entrenched Human Rights Charter —By Francis C. Muldoon —12 Can B I
- The consultative function of the Supreme Court —By C. P. Berthwal —1969 (II) M L J (Jour)
- Contravention of Art. 13 (2)—By Presidential Order under Art. 359 (1)—G. S. Pandey —(1969) 1 S C J (Jour)
- Counsel in the criminal process—By R. Prasaman —(1968) 10 J I L I
- The Criminal law power in Canadian Constitution and its jurisdiction —By Indira Bhaumik —11 (1969) J I L I
- Discrimination in by-laws—By K. P. S. Roome —86 S A L J
- Equality under the law—By Michael J. Hindelang —60 J C L C P S
- Equal opportunity in public employment—By J. Minathur —(1969) 1 M L J (Jour)
- Equal Protection — Developments in the Law —82 Har L R
- Executive Order 11,246; Executive encroachment —By James E. Remment —55 A B A J Lw
- Foreign policy decision-making and the Indian Parliament —By Judith M. Brown —III J S P S 15
- Freedom of trade and commerce and restraints on the State power to tax sale in the course of inter-State trade and commerce —By S. N. Jain —(1968) 10 J I L I 54
- The function of the due process clause: —By Leonard G. Ratner —119 Uni Penn L R 104
- Fundamental rights and the institutional viability of Indian Supreme Court —By A. R. Blackshield —8 J I L I (1966)
- Governor and Ministers—Editorial note —73 C W N (Jour)
- Governor's discretionary powers —A study in the intention of the Constitution-makers—K. C. Markandan : —II J C P S

Contempt of Court (contd.)

- The powers of the High Court of (Punjab) for Contempt of Court under Art. 215 of the Constitution—By M. Vijjaia Kumar —Law 1969, 163
- Remission of sentence and contempt of Court—Editorial Note —73 C W N (Jour) 119

Contract

- Analyzing unconscionability problems —By John A. Spanogle Jr. —117 Uni Penn L R 931
- The commission merchant at common law —Inadequacy of Agency Law—By D. J. Hill —(1968) 31 Mod L R 623
- Contracts between doctors and patients—D. J. Jonbert —86 S A L J 290
- The early history of consideration—By J. L. Barton —85 L Q R 372
- Extent of Unlawfulness of Wagering Contracts in England—By M. V. Appala Naidu —(Dec) 151
- Freedom of Contract —V. G. Ramchandran —(1969) 1 M L J (Jour) 5
- Frustration in frustration —By I. C. Saxena —(1968) 10 J I L I 687
- Havala transactions: their judicial nature and rights acquired thereunder—By M. S. Vaidya —71 Bom L R (Jour) 7
- Making misrepresentations—By A. H. Hudon —85 L Q R 524
- Performance of contract and illegality —By V. Parabrahma Sasiri —1969-II A W R (Jour) 1
- Personal liability of an agent —By F. M. B. Reynolds —85 L Q R 92
- Practitioner's guide to the law of tender—By M. A. Gross —12 Can B J 282
- Some recent trends in the law of contract including the concept of consideration —By V. J. Ramchandran —1969 Lawyer 136
- Terminability of contracts of unspecified duration—By A. R. Carnegie : —85 L Q R 392
- "Undisclosed principal in India"—By R. P. Singh —(1969) II M L J (Jour) 23
- Unjust enrichment, Quasi-contract and restitution—By R. A. Samek —47 Can B R I

Co-operative Societies

- Banking Regulation Act and Co-operative Banks—By S. Vishwanath —5 Co-op L J (Jour) 71 (1969-70)
- Conflict of jurisdictions—By M. D. Vidwans —5 Co-op L J (Jour) 26 (1969-70); —1969 Co-op I D (Jour) 1
- Co-operative Courts—Editorial —1969 C T D (Jour) 4
- Period of limitation for referring disputes under S. 70 of Mys. Co-op. Societies Act, 1959, to the Registrar—By M. P. Somasekhara Rau —(1969) 1 Mys L J (Jour) 24
- Sharing of surplus in Co-operative Societies—By S. C. Mehta —5 Co-op L J (Jour) 34 (1969-70)

Copyright

- The role of the register of copyrights in the Registration Process: A critical appraisal of certain exclusionary regulations —116 Uni Penn L R 1380

Corporations

- Vires of corporate contractual powers —By Surya Kumar —Law, 1969, p. 154

Corruption

- Local Government corruption and public confidence —By D. E. Regan & A. J. A. Morris —1969 Pub Law 132

Courts

- Judicial stricture and the rule of law —By B. K. Pal —XXXV (1969) C L T (Jour) 27
- "Restraint of Legal Proceedings"—By R. P. Singh —Law 1969 (Jour) p. 177

Criminal Law

- Abortion Law Reforms—By Harvey L. Zia —60 Cri L Crlogy & Pol Sci 3
- A curious American practice; Editorial note —73 C W N (Jour) 41
- Admissibility of confession of co-defendant—By Leonard Singer —60 Cri L Crlogy & Pol Sci 195
- Adverse legal consequences of conviction and their removal: A comparative study (Pt II)—By Mirjan R. Damaska —59 Cri L Crimlogy & Pol Sci 542
- A plea for amendment of S. 497 Cr. P. C.—By R. K. Raina —1969 Cr L J (Jour) 106
- Appraising the system of Criminal Law, its processes and administration—By Kenneth Lawing Penegar —(1968) 10 J I L I 353
- A study of Ss. 167 and 344, Cr. P. C. in relation to the remand of the accused—By R. K. Saxena —1969 Cr L J (Jour) 4
- Compensation for crime—Editorial —73 C W N (Jour) 97
- Complicity in Criminal Code—By R. J. Buxton —85 L Q R 252
- The concept of 'animus iniuriandi'—By C. F. Amersinghe —86 S A L J 299
- Confessions and the Social psychology of coercion —By Edwin D. Driver —82 Har L R 42
- Co-operative action in organised crime control—By Dwight C. Smith —59 Cri L Crimlogy, & Pol Sci 491
- Corporate liability—P. C. Gupta —1969 Cri L J (Jour) 7
- Criminal Procedure Code and the Rule of Law in India—By Thomas Maliyekkel —1969 K L T (Jour) 18
- Electronic Surveillance and the administration of Criminal Justice—By Stanley M. Beck —46 Can B R 643
- Enthanasia: None dare call it murder—By Joseph Sanders —60 J C L C P S 351
- Epilogue to criminal justice survey—By Geoffrey C. Hazard, Jr. —55 A B A J 1048
- Forfeiture of Bond and cancellation of Bail a distinction—By R. G. Chaturvedi —11 (1969) J I L I 100
- Inadmissible confessions and their fruits—By Stanley Hirtle —60 Cri L Crlogy & Pol Sci 53
- Irresistible impulse v. Provocation in homicide—By M. Marcus —1969 K L T (Jour) 60
- Legalising abortion—By P. G. Nair —1969 Cr L J (Jour) 98
- Offence of criminal trespass —A case for amendment—S. D. Karwande —1969 Cr L J (Jour) 6
- Offences under the Companies Act and the doctrine of mens rea—By Tahir Mahmood —(1969) 2 Comp L J (Jour) 25
- On deterrence and death penalty—By Ernest VanDan Hoag —60 Cri L Crlogy & Pol Sci 141.

Criminal Law (contd.)

- Operation of special laws relating to extenuation of bad characters—By R. Deb: D. R. Puri : K. Rudra : Y. Vaikunth & S. M. Edmod —11 (1969) J I L I 1
- Paradoxes in the administration of criminal justice—By W. E. Barger —53 Cr L Law, Crlogy & Pol.Science, 428
- Prisoner's dilemma: harsher punishment on retrial—Allan Ashman —55 A B A J 928
- The privilege against self-incrimination in bankruptcy proceedings—Editorial Comments —117 Uni Penn L R 1003
- Reflections on some theories of punishment—By Joel Meyer —59 Cr L, Crimlogy & Pol Sc 595
- Reform in Criminal Law —Editorial —73 C W N (Jour) 33
- Remand of accused pending filing of charge-sheet—By Suresh Babu —1969 Cr L J (Jour) 2
- Right of cross-examination of P. W's. in Warrant cases —By Sundarnarayan Patnaik —1969 Cr L J (Jour) 102
- Rights of the accused—By H. S. Urseker —1969 Cr L J (Jour) 69
- Scope of S. 307, Penal Code (Attempt to murder)—By P. S. Achuthan Pillai —1969 K L J (Notes) 1; (1969) M L J (Crl) (Jour) 3
- Sentencing disparity: Causes and cures —By Julian C. D'Esposito Jr. —60 Cr L Crlgy & Pol Sc 182
- Should we have a law of attempted crime?—By P. R. Glazebrook —85 L Q R 28
- Statutory offence and mens rea —Editorial —(1969) II S C A (Jour) 3
- Study of S. 151, Criminal P. C. with respect to its scope, remand and grant of bail—By Suresh Babu —1969 Cr L J (Jour) 108
- The trial Judge's guide to newsreporting and fair trial—By Bernard S. Meyer —60 J Cr L Crlgy & Pol Sc 287

Criminal Procedure

- Amendment of S. 167, Criminal P. C. —A proposal —By V. S. Anjaria —1969 Cr L J (Jour) 62
- A study of judicial dominance of the charging process —By Donald M. McIntyre —59 Cr L Crimlogy & Pol Sc 463
- Competency to stand trial—A call for reform—By David E. Bennet —59 Cr L Crimlogy & Pol Sc 569
- Court ordered electronic surveillance —Stephen Linzer —60 Cr L Crlgy & Pol Sc 203
- Dismissal of complaint under S. 204 (3), Criminal P. C. —By Sundarnarayan Patnaik —1969 Cr L J (Jour) 55; (1969) 1 An W R (Jour) 18
- Forfeiture of Bond and Cancellation of Bail —A distinction—By R. G. Chaturvedi —1969 Cr L J (Jour) 40
- Last days of bail—By John Ryan —58 Cr L Crlgy & Pol Sc 542
- Need for amending Ss. 161 and 162, Criminal P. C. —By Bhim Reddy —1969 Cr L J (Jour) 9
- On the justifications for civil commitment—By J. M. Livermore, Carl P. Malmquist & Paul E. Meehl —117 Uni Penn L R 75

Criminal Procedure (contd.)

- Pre-trial detention of witnesses —Editorial comments —117 Uni Penn L R 700
- Public Prosecutors—Editorial note, —1969 K L R (Jour) 53
- Reforms in administration of justice —By Prem Shanker Pachanry —1969 Cr L J (Jour) 54
- Right of cross-examination of prosecution witnesses in warrant cases —S. Patnaik —(1969) M L J (Crl) (Jour) 1
- S. 27 of the Evidence Act and the ruling in Shivaji's case—By K. P. Devassy —1969 Cr L J (Jour) 54
- S. 401 of Criminal P. C. —Editorial note —83 C W N (Jour) 128
- The statutory onus of proof in criminal cases—By W. A. Schulz —10 Can Bar L J 492
- Take Cognizance of —By P. S. John —1969 K L T (Jour) 8

Damages

- Collateral benefits again —By P. S. Atiyah —32 Mod L R 397
- The relevant date for assessment of compensation —By F. A. Menn —85 L Q R 516

Directors

- Proportional representation on the Boards of Companies —By Ved Prakash Juneja —(1969) 2 Comp L J (Jour) 29

Disposition of Property

- The ceiling on urban property—Is it a forward measure or State Capitalism —By S. N. Gupta —1969 M L R (Jour) 45

Divorce

- The break-down theory in Hindu Law of divorce—By Paras Diwan —Law 1969, p. 191
- The Divorce Act, 1968 —Collusion confined —By John Supinka —47 Can B R 31

Easements

- Are Consolidation Authorities competent to adjudicate upon a right of easement? —Ram Raj Singh —57 All L J (Jour) 13

Education

- The scope and source of School Board Authority to regulate student conduct and status: a non-constitutional analysis —S. R. Goldastein —117 Uni Penn L R 373

Elections

- Powers of the Election Commission —Editorial —73 C W N (Jour) 103
- Void election —Editorial —73 C W N (Jour) 79

Evidence

- A study of tape-record evidence and its admissibility under law—By M. Balasubrahmanyam —(1969) II An W R (Jour) 38
- Inam register —Evidentiary value —(1969) II M L J (Jour) 37
- The last word on the last word (Crown's Privilege)—By D. H. Clark —32 Mod L R 142
- Scope of S. 154, Evidence Act —By B. C. Banerjee —1969 Cr L J (Jour) 63

Evidence (contd.)

- S. 27 of the Evidence Act and the ruling in Shivaji's case — By K. P. Devassy —1969 K L J (Jour) 11

Extradition

- A point of extradition — Editorial note —73 C W N (Jour) 45

Factory

- Importance of standing orders—By J. N. Desai 1969-Vol 1 L L J (Jour), V

Finance

- Economic possibilities for the seventies—By N. A. Palkhiwala —1969 C T B 946
- Financial reporting in a changing society—By A. R. Ramanathan —VII (1969) Comp. N & N 401

Gold

- Gold control, gold coins, Gold bullion —Editorial —(1969) II S C A (Jour) 1

Health

- Defining the health hazard factor in a Job evaluation plan—By K. Ramamurthy & S. B. Ray —46 Lab Gaz 611

High Court

- Segmentation of High Courts — By H. P. Dubey —1969 All L J (Jour) 35

Hindu Law

- Acquisition of joint family property and recent decisions of the Supreme Court—By J. D. M. Derret — 1969 K L R (Jour) 37
- Acquisition of Joint family property through a coparcener : let Sastrie and Equity principles join hands—By J.D.M. Derret 71 Bom L R (Jour) 75
- A Judicial evaluation of Hindu Women's Property Right — By N. C. Srivastava —Law 1969, 47
- Authority of the de facto guardian in Hindu Law : An appraisal—By B. N. Sampath —(1969) II S C J (Jour) 70
- Does Throwing Separate Property Into Common Hotchpot of H. U. F. amount to "transfer" ? — By Vallabhdas Mohta —(Feb) 27
- Hindu Marriage Act, 1955. An experiment in Social Legislation—By B. S. Sinha —34 C L T (Jour) 25
- The jurisdiction of the High Court under S. 12 of Hindu Minority and Guardianship Act — By N. Vijaya Kumar —Law 1969 p. 96
- Marriage of Hindu Minors—By K. S. N. Murty —(July) 72
- Right of issues of void or voidable marriages—A. N. Saha — 73 C W N (Jour) 75
- Section 14 (2) of the Hindu Succession Act—A disturbing judgment from Andhra Pradesh—By J. D. M. Derret (1969) Vol 71 Bom L R (Jour) 62
- That little word "To" in S. 5 (1) of Hindu Adoptions and Maintenance Act, 1956—By G. K. Dabke —71 Bom L R (Jour) 13
- Unreasonableness in the Hindu Succession Act, 1956—A. K. Banerjee —73 C W N (Jour) 83

Houses and Rents

- Bombay Rent Act, Section 12—By G. K. Dabke —71 Bom L R (Jour) 1

Houses and Rents (contd.)

- Interpretation and Anamolies—U. P. (Temporary) Control of Rent and Eviction Act (III of 1947)—By Charan Singh Chaudhry—(Dec.) 154.
 - Right of landlord to eject tenant without recourse to law—A. N. Saha —73 C W N (Jour) 26
 - Special Rent Courts — By G. K. Dabke (1969) 71 Bom L R (Jour) 72
- Income-tax**
- A critique of "Bella Cowder"—By C. R. Ravi —(1969) I I T J (Jour) 130
 - Addington and the coming of Income-Tax—By S. Narayanan (1969) 2 I T J (Jour) 33
 - Advance payment of tax (Ss. 207 to 219) —By R. N. Lokhotia —1969 C T B 939
 - Deduction of notional tax liability of Employer from gross profits for Bouns calculation — Meaning of Notional Tax Liability & mode of its calculation —5 D C I L L 13
 - Determination of business profits—S. Bhattacharya (1969) I T J (Jour) 26
 - Distinction between capital expenditure and revenue expenditure —By H. M. Talati —(1969) I T J (Jour) 50
 - Law relating to H. V. F. and analysis of the proposed amendments — By M. G. Agarwal — 1 T C 15
 - Payment by cheque or draft — By Banvarilal Agarwal —XXXV (1969) CLT (Jour) 39
 - Pre-operative expenditure and know-how—By S. A. Murali Prasad —(1969) 2 I T J (Jour) 19
- Industrial disputes**
- Adjudication reconsidered—By L. K. Deshpande —X I L J 297
 - Ban on termination of services pending a dispute — V D C I L 173
 - The conciliation process at work — By O. Venkachalam — 1969 Lab Gaz 15
 - Industrial strikes—By H. K. Joshi — 10 I L J 1519
 - Receipt of an amount in full and final settlement of compensation on retrenchment—an act of waiver, estoppel or closure —IV (1968-69) D C I L L 490
 - Representation of parties under S. 36 of Industrial Disputes Act, 1947—By G. C. Agarwala 1969 All L J (Jour) 17; (1969) 18 F L R (Jour) 5
 - Settlement in conciliation — By J. N. Desai — 1969 Vol 1 L L J (Jour) VII
 - Strike, picketing etc. as industrial actions—By P. G. Krishnan —Law 1969, 19
- Industrial relations**
- Communication in industry — By H. Sambamurthy —1969 I L J 625
 - Industrial conflict—Judicial attitudes —By P. O'Higgins & M. Partington 32 Mod L R 53
- Industries**
- Industry — Judicial interpretation and concept—By N. K. Joshi —1969 I L J 1659
 - Legal aspects of small industry — By P. Sheshadri — 1969-II An W R (Jour) 21
 - Shop floor supervision and its problems in industry—L. S. Kudchedkar —1969 Lab Gaz 6
- International Law**
- A knocking at the closed doors of a Court—Act of State and Acquired rights —By D. R. Meghe —1969 M P L J (Jour) 115

International law (contd.)

- General attitude of Asian-African Nations towards certain aspects of International law of treatment of aliens with special reference to Indian law & practice—V. S. Mani —35 C L T (Jour) 5; 1969 S C D (Jour) 27
- Intervention in civil strike—By Tom J. Farer —82 Har L R 511
- Legal problems of foreign investment with special reference to India—By Chittaranjan Sinha —11 (1969) J I L I 159
- Nationalisation of Foreign Property—R. D. Garga (1969) 1 S C J (Jour) 1
- The justiciability of International Disputes—By J. C. Merils (1969) 47 Can B R 241

Interpretation of Statutes

- Article 367 (1), Constitution of India and the General Clauses Act —By Dalip Singh —11 (1969) J I L R 108
- Construction of statutes—Editorial note —73 C W N (Jour) 151; (1969) II S C A (Jour) 7
- Construction of statutes—Gleamings —1969 K L R (Jour) 87
- Contemporanea Expositio —By T. K. Chendrasekhar Reddy —Law 1969, p. 205
- Extrinsic aid in the construction of statutes—By V. S. Deshpande —11 (1969) J I L I 123
- Interpretation of Statutes and translation of authoritative texts to —Editorial note —73 C W N (Jour) 111
- Questions of degree—By W. A. Wilson —32 Mod L R 361

Judiciary

- Dual system—A note —(1969) 1 S C A (Jour) 39
- Independence of judiciary —By D. N. Mithal —(1969) III, No. 3. J C P S, p. 13
- Judicial methods—By M. Hidayatullah —III J C P S 1 (1969)
- Judicial stricture and the rule of law—By B. K. Pal —1969 S C D (Jour) 49
- Judiciary and the Constitution —V. K. Thiruvengkatachari —82 L W (Jour) 1
- State Attorney-General —a friend of the Court?—By Henry J. Abraham and Rober R. Benedeth —117 Uni Penn L R 795

Jury

- A reappraisal of the Grand Jury concept—By Seymour Gelber —60 Crl L Crlgy & Pol Sci 24

Labour

- A Critique of National Labour Relations Board's performance in policy formulation: Adjudication and Rule-Making—By Cornelius J. Peck —117 Uni Penn L R 254
- Are there alternatives to public employee strikes?—By Thomas R. Donahue —(1969) 35 F J R (Jour) 5
- Atmosphere in the work place—Supervisor's role—By B. K. Verma —48 Lab Gaz 1279
- The challenge of automation to labour —Soloman Barkin —48 Lab Gaz 316
- Challenging tasks before the International Labour Organisation —By R. Venkat Raghavan —(1969) 10 I L J 1188
- Collective agreements and the law—By Norman Selvyu —32 Mod L R 377

Labour (contd.)

- Communications at and away from bargaining table —By Howard W Solomon —48 Lab Gaz (Bom) 608
- Consumer Price Index Number —Problem of—Linking differently Weighted indices—By H. G. Gupta X I L J 303
- The Contract of Employment —Old and New—By V. S. Deshpande (Aug) 80C.
- Domestic inquiry: Charges under several heads and punishment —By C. P. Chandra Das —(1969) 1 L L J (Jour) 1
- "Employees' misconduct" —By Navin Kumar —V D C I L L 67
- Fifty years of I. L. O.—An appraisal—By S. R. Mohan Das —(1969) 10 I L J 1199
- "Gherao" as a weapon of Trade Union —P. G. Krishnan —1969 S C D (Jour) 12
- Indebtedness among the workers—By K. G. Desai —1969 I L J 1653
- India and the I. L. O.—By I. Prasad —(1969) 10 I L J 1210
- Jurisdiction of High Court under Art. 226 in Labour matters—By P. Balagangadar Menon —1969 K L T (Jour) 21
- Lay-off and Labour law —By S. C. Srivastava —1969—Vol II L L J (Jour) 13
- The N L R B and unit clarification petition—By John E. Abodeely —117 Uni Penn L R 1075
- The philosophy of American Management's attitude towards labour—By N. C. Chamberlain (1969) 48 Lab Gaz 1405
- Problems of communication for management—By K. G. Desai —10 Ind Lab Jour 181
- Proposal for changes in Labour Law—A note by Study Group —IV (1968-1969) D C I L L 489
- Public employment: Mediation, Fact Finding and Arbitration —By Wm-B. Gould —55 A B A J 835
- Re-employment of retrenched workers —V D C I L L 169
- Restrictions on the right to strike and lockout—By V. P. Arya —1969 D C I L L 446
- Role of personnel administration in India—By Navin Kumar —48 Lab Gaz. (Bom) 605
- Seniority and testing under fair employment laws —By George Cooper & Richard B Sobol —83 Har L R 1598
- Some consequential issues arising out of strikes and lockouts —By V. P. Arya —IV (1968-69) D C I L L 491
- Suggestion for quasi-judicial bodies for labour disputes settlement —Laws in Commission's report—Editorial —5 D C I L L 10
- Technical Co-operation by I. L. O. within Asian Region —By N. K. Joshi —(1969) 10 I L J 1205
- Termination of services of a probationer —V D C I L L 167
- Unfair dismissal and re-instatement—By G. deN. Clark —32 Mod L R 532
- Universal peace through social justice —By J. L. Hathi —(1969) 10 ILJ 1184
- Validity of the proviso to sub.s. (4) of S. 1 of the Motor Transport Workers Act, 1961—By Venkat Raju —(1969) II An W R (Jour) 35
- Workers' Education in India—By R. D. Joshi —1969 Lab Gaz 9
- World employment programme of the I. L. O.—Naval H. Tata —(1969) X I L J 1195

Land

- Inam—Whether land or revenue — By C. V. Sankaranarayan —(1969) 1 M L J (Jour) 47

Land Laws

- Intestate succession to land and conflict of laws—By J. H. C. Morris —85 L Q R 339
- Land law and conveyancing reforms—By Stefon Cretney —32 Mod L R 477

Law and Lawyer

- Urgent Need For Separate Law University—By B. R. Mandlekar (Aug) 80A

Law (General)

- The American Law on racial discrimination — By Norman Dorsen —1968 Pub. Opinion 304
- Authoritative translations of legal enactments—By G. C. Venkat Subbarao (1969) 1 S C J (Jour) 50
- Ouster clause in Statutes—Editorial note —73 C W N (Jour) 107
- Courts and Universities — Editorial note —73 C W N (Jour) 57
- Courts-Martial, Civilians and Civil Liberties—By Gordon Borrie —32 Mod L R 35
- Definition of law and the Supreme Court—D. S. Mitra —(1968) 10 J I L I 434
- Federal Common Law —82 H L R 1512
- “1968” The International Year for Human Rights—By P. G. Krishnan —(1969) 1 S C J (Jour) 26
- Judicial process reconsidered in the light of role-theory — By Robert B. Seidman —32 Mod L R 516
- Justice: unequal but inseparable — By R. K. Gupta —(1969) 11 J I L I 57
- Law and Communist reality in the Soviet Union—By Maddock & Gezyboski —55 A B A J 938
- Law and injustice —73 C W N (Jour) 81
- Law and the Just Society — By J. C. Smith —12 Can B J 222
- Law reform—The choice of method—By Ruth L. Desch —47 Can B R 395
- Lord Devlin on injustice —73 C W N (Jour) 82
- Muslim personal law and a Uniform Civil Code for India—By M. Z. Sidique —(1969) III, No. 3, J C P S 93
- Muslim polygamy and divorce in India — By P. Kodand Rao —(1969) III, No. 3, J C P S 97
- Need for Uniform Civil Code for India —By C. C. Desai —(1969) III, No. 3, J C P S 90
- The rule of law or the defiance of law —By Wm. T. Gossett —55 A B A J 823
- Rule of Law — Some questions — By J. G. Gundappa —1969 K L R (Jour) 63
- Seven ages of law — By K. Venkoba Rao —1969 (2) S C C (Jour) 35
- Uniform Civil Code — By R. C. S. Sarkar —(1969) III, No. 3, J C P S 76

Law of Property

- Civil rights in expropriation—By J. T. Weri —46 Can B R 591
- Defence of jus tertii — By Prithvish Bagchi —(1969) 1 S C A (Jour) 27

Legal aid

- Where will Ursula go?—By Margareite M. D. Jan —55 A B A I 1046

Legal Practitioner

- Frontiers of law and lawyership — By John Turner —12 Can B J 7
- Sex discrimination in the legal profession—By Beatrice Dinerman —55 A B A J 951
- Social security measures for members of the Bar—By S. N. Gupta —1959 M L R (Jour) 1
- What is wrong with law? — Editorial Note —73 C W N (Jour) 131

Legal Systems

- The House of Lords: reflections on social utility of Final Appellate Courts — Bloom-Cooper & Drewry —32 Mod L R 262

Legislatures

- Can the Prime Minister issue whip for a party candidate —By B. V. Vishwanath Iyer —(1969) 11 M L J (Jour) 57
- Parliamentary immunities & criminal law—By M. M. Dube —1969 Cri L J (Jour) 103
- Parliamentary privileges and the criminal Courts—By Madhur Mohan Dube —1969 M P L J (Jour) 19

Limitation

- Section 12 (2) of the Limitation Act—An Interpretation—By Dr. Moti Babu (Sept) 101

Marriage

- Are ‘marriages’ with persons of neuter gender void or merely voidable — By J. D. M. Derret —71 Bom L R (Jour) 87
- Are separation agreements between spouses valid?—By J. D. M. Derret —1969 K L T (Jour) 42
- Is a marriage of a person under S. 21 under the Special Marriage Act (1872) null and void for want of consent of the parent or merely voidable?—By J. D. M. Derret —(1969) 11 M L J (Jour) 1
- Polygamy and social policy — T. C. Hartley —32 Mod L R 155
- The validation of void marriages —By D. Talstoy —31 Mod L R 656

Martial Law

- Martial Law and the State of Siege—By Joseph Minathur —1969—II S C J (Jour) 43

Master and Servant

- Labour Management relations in a changing world—By David A. Morse —48 Lab Gaz 754
- Rule of Personnel Administration within factory premises — By Navin Kumar —48 Lab Gaz 756

Mines

- Security in Mines—By G. H. L. Fridman —32 Mod L R 174

Mohamedan Law

- Polygamy Among Muslims — By P. C. Jain —(Nov) 136

Motor Vehicles

- A Note on Section 130 (1) of the Motor Vehicles Act, 1939 (Act No. 4 of 1939)—By Dr. B. N. Acharya —(Dec) 153

Natural Justice

- Social justice and Natural justice—By T. K. Jagdeesh —46 Lab Gaz (Bom) 767

Obscenity

- Law of obscenity and freedom of expression—By A. N. Grover —(1969) III, No. 3 J C P S 6
- Test of obscenity in Ranjit Udesi Case —By P. S. Chaudari —1969 Cr L J (Jour) 73

Offenders

- Religious freedom in the correctional institution—By Daniel P. —60 J C L C P S 299

Panchayats

- Scope of Nyaya Panchayat's jurisdiction—By D. N. Shukla —1969 A L J (Jour) 5

Partnership

- The Control test for limited partnerships—By A. Lan L. Feld —82 H L R 1471
- Registration of firms — Some problems of interpretation—By M/s. C. P. Pandey & Kuldip Singh —(1969) 1 Aa L J (Jour) 7

Passports

- Passports and P Forms—Editorial note —73 C W N (Jour) 13

Personal Law

- The legal position of the mother in the modern family law—By Dr. Paras Diwan —1969; Law 109

Planning

- Planning in Federal Democracy—Status of planning at Zilla Parishads, State and Federal levels — Need of geographical data for regional planning — By D. R. Gadgil —48 Lab Gaz 760

Police

- Education and Professional Law Enforcement—By A. C. Germaun —58 Cr L, Crlogy & Pol Sc. 603

Practice & Procedure

- Courts' power to authorise illegal stay —Editorial note —(1969) S C A (Jour) 31
- Interruption and impatience shown by presiding Judge—Editorial note —73 C W N (Jour) 124
- Judgments in search of full faith and credit: The Last-in-time rule for conflicting judgments—By Ruth B. Ginsburg —(1969) 82 Har L R 798
- Provincial Small Causes Courts Act, S. 17 Proviso—Purpose of —(1969) II An W R (Jour) 19
- Revisional Jurisdiction under S. 115, Civil P. C.—By Balmokand Vohra —(July) 66
- Revisional Jurisdiction under S. 115, Civil P. C.—By Mahendra Gill —(Feb) 24
- Sale notice—Scope of Enquiry—Consequences—By M. Venkatratnam —(1969) II A L T (Jour) 4
- Scope of amendment of pleadings under O. 6 R. 17, Civil P. C.—By M. Balasubramanyam —(1969) 1 An L J (Jour) 46
- Solicitor and Client privilege under the Income tax Act—By Martin Freedman —12 Can B J 93
- Special Leave to Appeal—The Supreme Court—By Om Prakash —Law 1969, 54
- Suit in ejectment — Defendant's plea of possession as lessee rejected—Whether plaintiff has to prove possession within 12 years—M. V. Nair —1969 K L R (Jour) 71; (1969) II M L J (Jour) 17

Practice and Procedure (contd.)

- Territorial jurisdiction of Courts to execute decrees under Civil Procedure Code—By M. Balasubramanyam —(1969) II An W R (Jour) 3

Precedents

- Binding force of High Court decisions —By V. A. Venkatchalapatty —(1969) 1 M L J (Jour) 65
- Binding nature of precedents—Editorial —73 C W N (Jour) 139
- English precedent and the judicial process in India—By G. Sitaramasastry —1969 Law 119

Preventive Detention

- Punitive tendencies in Preventive Detention—By Joseph Minathu —(1969) 1 S C J (Jour) 19

Prisons

- Prisons disciplinary decisions — By Daniel J. Gallington —60 Cr L Colgy & Pol Sc 152
- Towards a realistic reorganisation of the penitentiaries—By Stephen Seliger —60 Cr L Crlogy & Pol Sc. 47

Property rights

- New forms of protection for intellectual property in the Soviet Union & Czechoslovakia—By S. J. Soltysinsk —32 Mod L R 408

Rehabilitation

- Urban renewal relocation: problems in enforcement of conditions of Federal grants to Local Agencies: — Terry J. Tondro —117 Uni Penn L R 183

Sale of goods

- Merchantability and fitness for purpose: implied conditions of the sale of goods: By Christine Davies —85 L Q R 74

Sales Tax

- Are Cocoanuts and Groundnuts Oil Seeds?—By V. Rama Shenai —(Aug) 87
- 'Consideration' for sale in Sales Tax law — By N. Srinivasan —Law 1969, p. 90

Securities

- Easing the burden of 'due diligence' under S. 11 — (Securities Act, 1933) — Editorial Comments —117 Uni Penn L R 735

Succession

- Soviet Law of Inheritance — Editorial note —(1968) II S C A (Jour) 35

Supreme Court

- Judicial Review and the Supreme Court of India —By S. V. Ramanna —(Oct) 122; (Nov) 130

Taxation

- Amendments proposed by the Taxation Laws (Amendment) Bill 1969 —1 T C 19
- Conflicting legal decisions under taxation laws—By V. Jagadisan —(1969) 2 I T J (Jour) 1
- Educating the tax payer — By M. C. Bhandari —(1969) 1 Comp L J (Jour) 24
- The liabilities of deities to pay taxes — J. D. M. Derret — 71 Bom L R (Jour) 38
- Penalties and Prosecutions under various tax laws—P. K. Chatterjee —(1969) V C T B 49

Taxation (contd.)

- Reflections on the Finance Bill, 1969
—By V. Jagadisan —(1969) 1 I T J (Jour) 124
- Taxation laws can be simplified — By
S. K. Agarwal —1 T C 2
- Taxation of income arising from chan-
ges in value of foreign currency—Donald
R. Ravenscroft —82 Har L R 772
- Tax compromises and the statute of
limitation —117 Uni Penn L B 441
- Tax planning—A service or a crime?—
By K. S. Carmichael —1969 C T B 845
- Tax reforms in U. S. A. — By J. A.
Risby —(1969) V C T B 537
- Towards greater taxpayer responsi-
bility (Plea for Tax Law amendment) —
By K. Annadhenam —(1969) 1 I T J (Jour) 133
- Valuation of assets for Wealth Tax and
Estate duty — By N. C. Krishnan
—(1969) I T J (Jour) 17

Tenancy Laws

- Is 'cultivation' or mere 'cultivability'
the test of private land in an 'estate'?—
By S. A. Kader —(1969) II M L J (Jour) 71
- "Minor inam"—What is under Madras
Acts XXX and XXXI of 1963 — By C. V.
Sankaranarayana —(1969) II M L J (Jour) 59

Torts

- Actionability of torts committed in a
foreign country — Editorial note
—(1969) II S C A (Jour) 31
- Civil Liability for "Gherao" — By
Durga Prasad —1969—Vol 1, L L J (Jour) 30
- Don't abolish tort law in auto-accident
compensation — By W. David Griffiths
—12 Can B J 187
- The jurisprudence of remedies : Con-
stitutional Legality and the Law of Torts
in *Bell v. Hood*—Al Katz —117 Uni Penn L R 1
- Liability of Road Authorities — Edi-
torial note —1969 M P L J (Jour) 31
- The protection of purchaser and con-
sumer under the law of U. S. A. — By
Robert S. Pasley —32 Mod L R 241
- Tortious Liability of Government — A
jurisdictional case — A note based on
AIR 1965 S C 1039 by A. R. Blackshield
—8 J I L I (1966) 643
- Towards a modern applicable law in
tort — By R. H. Graveson —85 L Q R 505

Trade Mark

- Passing off; and the problem of pro-
duct simulation — By J. M. Evans
—31 Mod L R 642

Trade Unions

- The problem of trade union recogni-
tion in India—By Om P. Bhatia —1969 I L J 503

Transfer of Property

- Doctrine of part performance in India
—By G. M. Sen —11 (1969) J I L I 224
- Is an Osra an Interest in Immovable
Property—By M. L. Jain (Aug) 80H; (Sept) 101

Transfer of Property (contd.)

- The protection of the purchaser of land
under English Law — By T. B. F. Ruoff
—32 Mod L R 121
- Sale under power of sale — By R. C.
Dick —10 Can Bar L J 505

Trusts

- The public policy of *Re Cook's Settle-*
ment Trusts — W. A. Lee —85 L Q R 213
- Rebus sic stantibus* revised in the light
of International Law Commission draft
—By S. C. Jain —(1969) II S C J (Jour) 1

United Nations

- Soviet attitude towards the expenses
of the United Nations—By M. V. Subba-
rao —(1969) II S C J (Jour) 23

War Damage

- Constitutional and Administrative as-
pects of the Anismic case ((1969) 2 WLR
163) — By H. W. R. Wade —85 L Q R 198

Wealth Tax

- Wealth Tax on Agricultural Lands —
By P. Rama Rao (July) 71

BAR COUNCIL NEWS

- The Bombay City Civil Court: Steps for
increase in number of Judges for coping
with mounting arrears of cases — Action
by Maharashtra Bar Council (Sept) 100
- Press Release from the Bar Council of
Maharashtra regarding age limit of High
Court Judges, Appellate (Criminal) judi-
cation of the Supreme Court and the
demands of the Gazetted Officers of the
High Court of Bombay (Oct) 122
- Removal of name from the Roll of Ad-
vocates of the Bar Council of Maharashtra (Apr) 88

BOOKS RECEIVED

- Law Quarterly Vol. 5, No. 2—June 68 (July) 80
- Law Relating To Notices 2nd Edition (May) 56
- Tef Narain Banailas Law College Bha-
galpur, Magazine for 1967-68 (June) 64
- The Young Lawyer (May) 56

BOOKS REVIEWED**Administrative Law**

- Administrative Legislation In Modern
India (Sept) 111

Arbitration

- International Seminar on Commercial
Arbitration (Jan) 15

Armed Forces

- The Air Force Act ; (Act 45 of 1950)
(With Notes) (Sept) 112

Armed Forces (contd.)		Evidence	
—The East German Army (A pattern of Communist Military Establishment)	(Feb) 30	—An Introduction to Evidence—Fourth Edition (1967)	(Jan) 8
Cinematograph		Foreign Law	
—Cinematograph Code	(April) 40	—A Guide to Buying and Selling Land	(April) 40
Civil Liability		—A Guide to Stamp Duties	(April) 40
—The Quantum of Damages Vol. I, Personal Injury claims	(June) 64	—The American Series of Foreign Penal Codes—Colombia	(June) 64
Company Law		—An Introduction to the Law on Uganda	(Nov) 141
—Company Law	(July) 79	—Evidence in East Africa	(Dec) 158
—Company Law Simplified (Second Edition)	(July) 78	—Law in Africa—Criminal Law of East and Central Africa	(June) 64
Constitutional Law		Government Servants	
—An Introduction to Australian Constitutional law	(Jan) 8	—Rights and Responsibilities of Government Servants	(Feb) 29
—Civil Liberties — Ramananda Lectures (1965) of the Calcutta University	(Aug) 90	Government Service	
—Civil Rights, the Constitution and the Courts	(Aug) 98	—Fundamental Rules explained	(Jan) 9
—Comparative Constitutional Process — Cases and Materials	(June) 63	Hindu Law	
—The Constitution of India	(Sept) 110	—Hindu Law : 2nd Edition	(July) 86
—Constitutions of the Asian Countries	(Sept) 111	Houses and Rents	
—The Critical Problems of Indian Constitution	(April) 88	—Lease and Licence Distinguished	(Sept) 111
—Fundamental Rights and Amendment of the Indian Constitution	(Jan) 15	—Second Supplement to the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act (XV of 1960)	(Jan) 16
—Houses of Parliament can modify Fundamental Rights	(April) 39	Income Tax	
—The Law of Speaking Orders	(Aug) 96	—The Law and Practice of Income-Tax	(Sept) 109
—Ombudsmen	(Jan) 9	Industrial Disputes	
—Principles Governing Article 226	(Jan) 13	—Dismissal Proceedings in Industrial Courts	(Aug) 94
—Right to Property under the Indian Constitution	(May) 55	Industrial Law	
—Understanding the Constitution	(Aug) 93	—A study of Industrial Law (Labour Laws)	(July) 79
Contract		—Cheraos and Industrial Relations	(Aug) 92
—Formation of Contracts	(July) 76	—The Industrial Employment (Standing Orders) Act, 1946	(Jan) 16
Criminal Law		—The Law of Industrial Disputes	(July) 78
—Criminal Laws in Soviet Union and India (A Comparative Study)	(Oct) 124	International Law	
—Principles of Criminology, Criminal law and Investigation	(Feb) 81	—Human Right in National and International Law	(Nov) 139
Criminal Procedure		—Manual of Public International Law	(Jan) 18
—Treatise on the Law of Bails	(Jan) 8	Judiciary	
Criminal Trial		—A short history of the Judicial Systems of India and some Foreign Countries	(Aug) 91
—Law of Sessions Trial	(July) 76	Jurisprudence	
Death Duties		—Introduction to Jurisprudence with Selected Texts	(Oct) 126
—Green's Death Duties	(Aug) 96	Labour	
English Law		—An Introductory Guide to Central Labour Legislation	(April) 38
—A History of English Criminal Law and its Administration From 1750	(July) 76	—India's Manpower Strategy Revisited 1947-1967	(Nov) 140
Essential Commodities		—Personal Management and Industrial Relations in India	(April) 89
—The Essential Commodities Act, 1955 (Act X of 1955) (as amended up to 31-8-1965)	(Aug) 92	Labour Laws	
		—Labour Law and Labour Relations with Appendix	(Jan) 11

Labour Laws (contd.)		Press	
—Principles Relating to Punishments and Disciplinary Actions in Private Industries	(Aug) 94	—Adjudication of Complaints Against Newspaper and others	(Oct) 125
Land Laws		—The Press and Parliamentary Privileges Reprint of Chap. II of the Second Annual Report of the Press Council of India, 1967, New Delhi	(Sept) 110
—The Laws on Land in Kerala	(Oct) 124	Public Safety	
Law and Practice		—The Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967) with Defence of India Act, 1961 with Rules (under Looseleaf System)	(Aug) 95
—A Guide to Law and Practice Act, 1967	(Jan) 15	Registration	
Law (General)		—Mulla on the Indian Registration Act (Act XVI of 1908)	(Jan) 13
—Annual Survey of Common Wealth Law, 1966 and 1967	(Feb) 30	Sale of Goods	
—Impact of Industrialisation on Law and Order	(Aug) 91	—Chalmers' Sale of Goods Act, 1893—Including the Factors Act, 1889 and 1890 (with Supplement) Fifteenth Edition	(Aug) 95
—Law in changing America	(Sep) 111	Sales Tax	
—Orthopsychiatry and the Law	(Sept) 107	—The Central Sales Tax Laws, Vols. I & II (Second Revised Edition), June 1968	(Feb) 31
Legal Practitioners		—Companion Volume to "General Sales Tax Law in Madhya Pradesh" incorporating Up-To-Date Amendments	(July) 79
—The Art of a Lawyer	(Sept) 106	Shipping Law	
—Law Relating to Advocates, Advocacy and Professional Ethics	(Jan) 11	—An Introduction to the Law Relating to Shipping in India	(April) 39
Master and Servant		States	
—Pension Schemes and Retirement Benefits	(June) 64	—Mahajan Report Uncovered	(Feb) 29
Mohamedan Law		Succession	
—Mulla, Principles of Mahomedan Law (16th Edition)	(Oct) 124	—B. B. Mitra's The Indian Succession Act—9th Edition	(May) 55
—Mushim Law, Personal law of Muslims in India and Pakistan	(Oct) 125	Supreme Court	
Mercantile Law		—Annotated Supreme Court Rules, 1966 including Supreme Court (Amendment) Rules, 1968	(Sept) 110
—Elements of Mercantile Law	(Nov) 139	Tenancy Law	
Motor Vehicles		—The Bombay Prevention of Fragmentation and Consolidation of Holdings Act (52 of 1947)	(Feb) 30
—Claims Tribunals & Compensation	(Feb) 28	—Leasehold Enfranchisement	(April) 40
Periodicals		—The West Bengal Non-Agricultural Tenancy Act	(Aug) 95
—The Banaras Law Journal, Vol. II, No. 1: January 1966	(Jan) 14	Tort	
—Current Legal Problems, 1967	(Feb) 32	—Negligence and other Torts in Engineering	(April) 38
—The Government Law College (Bombay) Magazine (Journal Section) 1968, International year for Human Rights Number 1967-68, Vol. XXXVI, No. 2	(Aug) 95	Transfer of Property	
—The Government Law College Magazine (Journal Section: Vol. 35, No. 2, 1966-67	(Feb) 30	—The Indian Conveyancer	(July) 77
—Journal of the Patent Office, Technical Society, 1967, Vol. 1, No. 1, pp. 1 to 110	(April) 39	Trust	
Practice and Procedure		—A Case Book on Trusts	(July) 77
—Civil Court Practice and Procedure	(Feb) 28		
—Concise College Texts, "Civil and Criminal Procedure"	(Oct) 127		
Precedents			
—Conveyance, Precedents and Forms	(Jan) 8		
—Forms and Precedents of Conveyancing and other Instruments and Major Petitions to Court	(Jan) 9		

CONTRIBUTORS OF ARTICLES

PHOTOGRAPHS

—Dr. B. N. Acharya	(Dec) 153
—M. V. Appala Naidu	(Dec) 151
—Charan Singh Chaudhry	(Dec) 154
—V. S. Despande	(Dec) 147
—V. K. Govindarajulu	(Nov) 142
—P. C. Jain	(Nov) 136
—S. N. Jobri	(Dec) 155
—K. C. Joshi	(June) 60
—K. S. N. Murty	(July) 72
—Mahendra Gill	(Feb) 24
—Dr. Moti Babu	(Sept) 101
—Om Prakash	(July) 68
—P. Rama Rao	(July) 71
—S. V. Ramanna	(Oct) 122; (Nov) 130
—Ranganatha Chari	(Dec) 146
—Sunder Nath	(Feb) 18
—Surendra Nath	((Jan) 4
—Vallabhdas Mohta	(Feb) 27
—Balmokand Vohra	(July) 66
—Wad S. B.	(May) 43

CORRESPONDENCE

—A letter from Girija Shankar Varma Adv., Motihari—Civil P. C. (1908), Ss. 80 and 82	(Sept) 112
--	------------

EDITORIAL

—New Year Greetings	(Jan) 1
---------------------	---------

FELICITATIONS

—The New Chief Justice of the High Court of Madhya Pradesh	(May) 43
--	----------

LIFE SKETCH

—The Late Chief Justice H. Hombe Gowda — By Shri V. K. Govindarajulu	(Nov) 142
--	-----------

NOTIFICATIONS

—Establishment of a permanent Bench of Madhya Pradesh High Court at Indore and Gwalior — Recd. from Registrar of Madhya Pradesh High Court	(Jan) 2, 3
--	------------

OBITUARY

—Shri S. N. Dhar—Reporter in Srinagar for High Court of Jammu and Kashmir	(Nov) 142
—The Late Mr. J. B. Kanga	(May) 56
—Shri G. B. Shidhaye — Reporter for Nagpur Bench of Bombay High Court	(Nov) 142
—The Late Dr. Zakir Hussain	(June) 60

—The Chief Justice of Bombay addressing the gathering	(Oct) 113.
—The Hon'ble Mr. Justice Ajay Kumar Basu Judge, Calcutta High Court	(April) 34.
—Shri V. V. Albal, Director, AIR Ltd.	(Oct) 114
—The Hon'ble Mr. Amiya Kumar Mookerji Judge, Calcutta High Court	(Sept) 98
—The Hon'ble Mr. Justice Anil Kumar Sinha, Judge, Calcutta High Court	(June) 58.
—The Hon'ble Mr. Justice Bishambar Dayal, Chief Justice, Madhya Pradesh High Court	(June) 57
—Shri D. W. Chitaley	(Oct) 114, 115.
—Shri P. P. Deo, Retired Judge, Nagpur High Court Chairman of the Board of Directors, A. I. R. Ltd. reading the welcome address to the Chief Justice	(Oct) 113.
—The Hon'ble Mr. Justice S. Ganesan, Judge, Madras High Court	(May) 42
—The Hon'ble Mr. P. R. Gokulkrishnan Judge, Madras High Court	(Sept) 99.
—The Hon'ble Mr. Justice Hari Swarup Judge, Allahabad High Court	(April) 33
—The Hon'ble Shri H. R. Khanna, Chief Justice, Delhi High Court	(Oct) 128.
—The Hon'ble Mr. Justice P. N. Khanna, Judge, Delhi High Court	(July) 65.
—The Hon'ble Shri Justice G. K. Misra, Chief Justice, Orissa High Court	(July) 65
—The Hon'ble Mr. Justice S. C. Misra, Chief Justice, Patna High Court	(Jan) 16
—The Hon'ble Mr. Mohd. Hamid Hussain Judge, Allahabad High Court	(Sept) 97.
—The Hon'ble Mr. Justice E. K. Moidu Judge, Kerala High Court	(June) 59
—The Hon'ble Mr. Justice K. Narayana-swami Mudliar Judge, Madras High Court	(April) 34
—The Hon'ble Mr. Justice K. S. Palani-swami, Judge, Madras High Court	(June) 57
—The Hon'ble Mr. Justice C. D. Parekh Judge, Allahabad High Court	(April) 33
—The Hon'ble Mr. Justice M. Pockiarath Unnikrishna Kurup, Judge, Kerala High Court	(Dec) 160
—The Hon'ble. Mr. Justice Pradyot Kumar Banerjee, Judge, Calcutta High Court	(June) 58.
—The Hon'ble Mr. G. Ramanujam Judge, Madras High Court	(Sept) 99.
—The Hon'ble Mr. Ram Singh Bindra, Judicial Commissioner, Tripura	(Aug) 81
—The Hon'ble Mr. Rangnath Misra, Judge, Orissa High Court	(Sept) 98.
—The Hon'ble Mr. Justice, Sabyasachi Mukharji Barrister-at-law, Judge, Calcutta High Court	(Feb) 17
—The Hon'ble Mr. Justice Salil K. Datta Judge, Calcutta High Court	(Dec) 160.

PHOTOGRAPH (*contd.*)

- The Hon'ble Mr. H. N. Seth, Judge, Allahabad High Court (Sept) 97
- The Hon'ble Mr. Justice M. N. Shukla, Judge, Allahabad High Court (May) 42
- The Hon'ble Mr. Justice P. Subramonian Poti Judge, Kerala High Court (June) 59
- The Hon'ble Mr. Justice K. Veerasami, Chief Justice, Madras High Court (May) 41

SPEECHES

- Address by the Hon'ble Shri S. P. Kotval, Chief Justice of High Court of Bombay (Oct) 120
- Address of Welcome presented to the Hon'ble Shri S. P. Kotval, Chief Justice of Bombay High Court, Read by Shri

SPEECHES (*contd.*)

- P. P. Deo, Chairman, Board of Director, A. I. R. Ltd. (Oct) 117
- Citizenship and Law—Address by Shri Nityanand Kanugo (May) 51
- Future of Administrative Law—Speech delivered by Prof. Norman S. Marsh (Nov) 130
- Income Tax Appellate Tribunal — Address by Hon'ble Chief Justice (April) 35
- Legal Education, Its scope — Address by the Hon'ble Mr. Justice J. M. Shelat (May) 52
- Speech of Hon'ble the Chief Justice, Delhi High Court delivered on the occasion of separation of Judiciary from the Executive on 3-10-1969 (Dec) 151
- The Test of obscenity in Ranjit Udesi Case—Paper read by Shri P. S. Choudhari (Sept) 103

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NOTES OF SUPREME COURT CASES SECTION



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NOMINAL TABLE

K. Jain v. Union of India	No. 136	Commissioner of Income-tax, Bihar v. Ramniklal Kothari	No. 30
Abdul Gani Namthali v. Gulam Mohd. Paray	No. 75	Commissioner of Income-tax Bihar and Orissa, Pantna v. Kirkend Coal Co.	No. 59
Abdul Rajak Murtaja v. State of Maharashtra	No. 111	Commissioner of Income-tax (Central) Calcutta v. Gold-mohore Investment Co.	No. 29
Aggarwal, K. C. v. Delhi Administration	No. 123	Commissioner of Income-tax (Central) Calcutta v. India Discount Co. Ltd.	No. 144
Aggra Electric Supply Co. Ltd. v. Alladin	No. 146	Commissioner of Income-tax, Excess Profits Tax Andhra Pradesh v. Jagan Mohan Rao	No. 137
Aher Mulu Laxman v. State of Gujarat	No. 113	Commissioner of Wealth-tax West Bengal II v. Tungabhadra Industries Ltd. Calcutta	No. 145
All India Film Corporation Ltd. v. Shri Raja Gyan Nath	No. 185	Commissioner of Wealth-tax, West Bengal-I v. Aluminium Corporation of India Ltd., Calcutta	No. 143
All Mysore Hotels Association v. State of Mysore	No. 180	Co-operative Central Bank Ltd. v. Additional Industrial Tribunal Andhra Pradesh	No. 34
Amalendu Mukherjee v. Ram Kishun Singh	No. 18	Debesh Chandra Das v. Union of India	No. 1
Amrit Sagar Gupta v. Sudesh Biharilal	No. 71	Delhi Cloth and General Mills Company Ltd. v. Labour Court, Tis Hazari	No. 140
Anjrun Kanoji v. Santaram Kanoji	No. 77	Delhi Municipal Corporation v. Jagdishlal	No. 124
Anitam Das v. Suriya Prasad	No. 64	Digiadarsan Rajendra v. State of Andhra Pradesh	No. 13
Anyesha Bibi v. Commissioner of Wakfs, West Bengal	No. 126	Giasi Ram v. Ramji Lal	No. 58
Baidyanath Panjiar v. Sitaram Mahto	No. 150	Goppulal v. Thakurji Shriji Dwarkadishji	No. 67
Baimai D. Italia v. Government of Andhra Pradesh	No. 93	Harakchand Ratanchand Banthia v. Union of India	No. 117
Baldevdas Shival v. Filmistan Distributors (India) (P) Ltd.	No. 112	Har Govind v. Shri Aziz Ahmad	No. 149
Bal Swarup Goel v. Municipal Board, Ghaziabad	No. 6	Hari Nandan Sharan Bhatnagar v. S. N. Dixit	No. 96
Bennet Coleman & Co. (P) Ltd. v. Punya Priya Das Gupta	No. 53	Hari Rao v. State of Bihar	No. 161
Beohar Rajendra Sinha v. State of M. P.	No. 55	Harko v. Bedariya	No. 19
Bhiwani Textile Mills v. Workmen	No. 33	Harwant Singh v. State of Haryana	No. 79
Bhutnath Chatterjee v. State of West Bengal	No. 73	Heavy Engineering Mazdoor Union v. State of Bihar	No. 69
Birendra Singh v. State of Madhya Pradesh	No. 98	Hindusthan Steel Ltd. v. State of Orissa	No. 139
Cantonment Board v. Naraindas	No. 5	Hindusthan Steel Ltd. v. Dalip Construction Co. Bhilai	No. 3
Central Tobacco Co. Bangalore v. Chandra Prakash	No. 88	Hira H. Advani v. State of Maharashtra	No. 152
Central Weaving & Manufacturing Co. Bombay v. Mill Mazdoor Sabha, Bombay	No. 68	Hira Lal Panna Lal Mahi v. State of Gujarat	No. 91
Chandra Bhavan Boarding & Lodging Bangalore v. State of Mysore	No. 180	Income-tax Officer, Special Investigation Circle-B, Meerut v. M/s. Seth Brothers	No. 127
Chitra Ghosh v. Union of India	No. 95		
Chottan Mahton v. State of Bihar	No. 99		
Choudhury, J. K. v. Birendra Chandra Dutta	No. 43		
City Municipal Council, Mangalore v. Frederic Pais	No. 173		
Collector of Customs v. Soorajmull	No. 10		

Indu Bhusan Bose v. Rama Sundari Debi	No. 107	Management of State Bank of Hyderabad v. Vasudev Anant Bhide
Jagad Bandhu Chatterjee v. Smt. Nilima Ram	No. 168	Manicka Nadar v. Sellathamal Mathai, H. V. v. Subordinate Judge, Kottayam
Jagatjit Distilling & Allied Industries Ltd. v. State of Punjab	No. 114	Mathai Methews v. State of Maharashtra
Jai Jai Ram Manohar Lal v. National Building Material Supply	No. 8	Misra V. D. v. Union of India
Jain Narain v. Kishan Chand	No. 26	Misrilal Jain (P) Ltd. v. Union of India
Jhansi Lakshmi Bai v. Pothana Apparao	No. 47	Monteiro Sebastino v. State of Goa
Jia Lal v. Ghulan Mustafa	No. 97	Municipal Council, Raipur v. State of Madhya Pradesh
Jitendra Bahadur Singh v. Shri Krishna Behari	No. 153	Nambiar K. C. v. Rent Controller, Madras
Jumnadass Narayan Dass v. Smt. Radhabai	No. 125	Nanak Chand v. Chandra Kishore Agarwala
Kabul Singh v. Kundan Singh	No. 151	Narasimha Rao A. V. S. v. State of Andhra Pradesh
Kamakshya Narain Singh v. Deputy Commissioner of Agricultural Income-tax, Ranchi	No. 4	Narayan Misra v. State of Orissa
Kamla Soni v. Rup Lal Mehra	No. 186	Narendranath N. V. v. Commissioner of Wealth Tax, Andhra Pradesh, Hyderabad
Kanta Kathuria v. Manak Chand Surana	No. 175	Nazul Ali Molla v. State of West Bengal
Kantilal Chandulal Mehta v. The State of Maharashtra	No. 165	Netherlands Steam Navigation Co. Ltd. v. Commissioner of Income-tax, West Bengal
Kartar Singh v. Chaman Lal	No. 74	Nivarti v. Dadarao
Keshava Narain v. Mandal Co-operative Marketing Society	No. 158	Official Receiver, Kanpur v. Smt. Laxmi Devi
Kraipak, A. K. v. Union of India	No. 108	Pandharinath Budhoo Patil v. State of Maharashtra
Kunwar Shri Vir Rajendra Singh v. Union of India	No. 179	Pankaj Kumar v. State of West Bengal
Kurapati Venkatatasatyanarayana v. State of Andhra Pradesh	No. 138	Patna Electric Supply Co. Ltd. v. Patna Municipal Corporation
Lachman Dass v. State of Punjab	No. 172	Postmaster General, Central Circle Nagpur v. Radhabai
Lakshmi Cotton Mfg. Co. Ltd. v. Commissioner of Sales Tax	No. 76	Pratap Singh v. Preetam Singh
Lalithamma v. Subbanna	No. 56	Pullangode Rubber and Produce Co. Ltd., Cochin v. Commr. of Agricultural Income-tax, Travandrum
Lennart Schussler v. Director of Enforcement	No. 166	Rabindra Nath Bose v. Union of India
Maganti Subramanyam v. State of Andhra Pradesh	No. 78	Radha Mohan v. Raj Kumar
Mahommed Abdul Khadar v. Chidambaram Mudaliar	No. 23	Raghuvir Singh v. Raghu Bir Singh Kushwaha
Mahommed Faruk v. State of Madhya Pradesh	No. 14	Ramaswami Naidu L. v. District Welfare Officer, Coimbatore
Mahommed Hussain Umar Kochra v. K. S. Dalipsinghji	No. 45	Ram Chand v. Thakur Janki Balabhaji Maharaj
Mahommed Ismail v. Nanney Lal	No. 27	Ramchander Narsy & Co. v. Wamanrao V. Shenoy
Mahommed Umar Saheb v. Kaleskar Hasham Karimsab	No. 9	Ram Chander Rai v. State of Bihar
Malojirao Narasinghrao Shitole v. State of M. P.	No. 48	Ram Dayal v. Brijraj Singh
Malya Apad Arat v. State of Mysore	No. 80	
Management of Ghaziabad Engineering Co. (P) Ltd. v. Its Workmen	No. 131	
Management of Pradeep Lamp Works v. Pradeep Lamp Workers, Karmachari Sangh	No. 183	

Ram Gopal Chaturvedi v. State of Madhya Pradesh	No. 118	State of Mysore v. P. N. Nanjundiah	No. 38
Ram Nath Ran Singh v. Chhaju Ram	No. 35	State of Orissa v. Chandra Sekhar Singh Bhoi	No. 128
Ranganatha Reddiar K. v. State of Kerala	No. 156	State of Punjab v. Chandu Lal Kishori Lal	No. 45
Ranjitbhai Nathubhai Desai v. State of Maharashtra	No. 40	State of Punjab v. Khemiram	No. 169
Ranjit Chandra Chowdhury v. Mohitosh Mukherjee	No. 28	State of Rajasthan v. Pundarik Pushkardutta	No. 181
Rayala Corporation (P) Ltd., and M. R. Pratap v. The Director of Enforcement	No. 135	State of U. P. v. Ramkrishan Burman	No. 187
S. K. G. Saugar Mills Ltd. v. Shri D. C. Merta, Official Liquidator Gaya Sugar Mills Ltd. Patna	No. 66	State of Uttar Pradesh v. Shah Mohammad	No. 70
S. M. Ram Lal and Co. v. Secretary to the Govt. of Punjab	No. 37	State of U. P. v. Sheo Prasad	No. 7
Sahodrabai Rai v. Ram Singh Aharwar	No. 44	State of U. P. v. Siya Ram; Subbaiya v. State of Bihar	No. 174
Sakharam v. State of Maharashtra	No. 85	Sub-Divisional Officer, Mandla v. Pirma Gond	No. 49
Sales Tax Officer v. M/s. Sudarshanam Iyengar	No. 148	Sub-Divisional Officer, Sadar, Faizabad v. Shambhoo Narain Singh	No. 39
Sanwal v. Chabila	No. 51	Sunder Singh v. Narayan Singh	No. 12
Satwara Chhagan Karsan v. State of Gujarat	No. 147	Swain N. v. B. K. Mohapatra	No. 16
Shah Jayantilal Ambalal v. Kasturilal Nagindas	No. 142	Swarna Lata Ghosh v. H. K. Banerjee	No. 65
Sheo Nath v. State of Uttar Pradesh	No. 177	Takhatray Shivdatrai Mankad v. State of Gujarat	No. 54
Shiv Nath v. Shri Mela Ram	No. 103	Tata Engineering & Locomotive Co. Ltd. v. S. C. Prasad	No. 61
Shyamal Chakraborty v. Commissioner of Police, Calcutta	No. 141	Thakore T. B. v. State of Maharashtra	No. 105
Shri Prithvi Cotton Mills Ltd. v. Broach Borough Municipality	No. 102	Textile Machinery Corporation Ltd. v. Malinbhai B. Munshaw	No. 2
State of Assam v. Hari Singh	No. 129	Tribhuvan Parkash Nair v. Union of India	No. 171
State of Assam v. Kuseswar Saikia	No. 167	Union of India v. Jagjit Singh	No. 41
State of Bihar v. Nathu Pandey	No. 90	Union of India v. Prem Prakash Midha	No. 155
State of Gujarat v. Patel Raghavnath	No. 84	Union of India v. R. S. Dhaba	No. 21
State of Gujarat v. R. G. Tere-desai	No. 60	Union of India v. Surjeet Singh Atwal	No. 92
State of Gujarat v. Ram Prakash P. Puri	No. 184	Venkataraman T. G. v. State of Madras	No. 130
State of Kerala v. M/s P. P. Joseph & Co.	No. 154	Vivian Modrick v. State of West Bengal	No. 119
State of Madhya Pradesh v. Harihar Gopal	No. 36	Vrajlal Manilal & Co. v. State of Madhya Pradesh	No. 94
State of Madhya Pradesh v. Kanhaiyalal	No. 83	Western U. P. Electric Power & Supply Co. Ltd. v. State of U. P.	No. 24
State of Madhya Pradesh v. Panchulal	No. 86	Workmen of the Calcutta Port Commissioners v. Employers Calcutta Port Commissioners	No. 63
State of Madhya Pradesh v. Seth Narsinghdas Jankidas Mehta	No. 115	Workmen of Calcutta Port Commissioner v. Management	No. 62
State of Madras v. Davar and Company	No. 122	Workmen of Lakheri Cement Works Ltd. v. Associated Cement Companies Ltd.	No. 132
State of Maharashtra v. Baisankar Avalram Joshi	No. 22	Workmen of New Egerton Woollen Mills v. Management of New Egerton Woollen Mills	No. 32
State of Maharashtra v. Mustafa Khan Arsalla Khan	No. 87		

Contract Act (contd.)

—S. 74—A sum payable for the breach of the auction sale should not be in the nature of penalty—Liability to extent of actual loss
No. 178

CO-OPERATIVE SOCIETIES

—Andhra Pradesh Co-operative Societies Act
—S. 61—See No. 34
—Madhya Pradesh Co-operative Societies Act, 1960—S. 82
No. 158

COURT-FEES AND SUITS VALUATIONS

—U. P. Court-fees Act, Sch. II, Cl. 17 (iii)—
S. 7 (IV-A)
No. 187

Criminal Procedure Code (5 of 1898), S. 258—
See No. 184

—S. 410—See No. 184

—S. 417—See No. 124

—S. 417—See No. 184

—S. 419, Ss. 258, 410, 417 and 423 — Joint appeal in the High Court by the State where several accused persons were jointly tried and acquitted by the Trial Court — Appeal valid
No. 184

—S. 423
No. 165

—S. 423—See No. 184

—S. 465
No. 119

—S. 488
No. 121

—S. 503—See No. 46

—S. 561-A
No. 135

DEBT LAWS

—Madras Agriculturists' Relief Act (IV of 1938), S. 19 (1) — Madras Merged States (Laws) Act (XXXV of 1949) — "Commencement" of Act in relation to merged State
—What is
No. 23

Delhi and Ajmer Rent Control Act (38 of 1952)
See under Houses and Rents.

Delhi Municipal Corporation Act (1965)
See under Municipalities.

Delhi Rent Control Act (59 of 1958)
See under Houses and Rents.

Delhi University Act (8 of 1922)
See under Education.

Desai Award (1962), Chap. 5 (xxiii) No. 101

Displaced Persons (Claims) Act (44 of 1950)
No. 171

Displaced Persons (Claims) Supplementary Act (12 of 1954), S. 5 (1) (b) No. 171

Displaced Persons (Compensation and Rehabilitation) Act (44 of 1954), S. 29 — Delhi Rent Control Act, S. 3, Proviso No. 103

Displaced Persons (Verification of Claim) Supplementary Rules (1954), R. 18 No. 171

Dying Declaration—Conviction based solely on the dying declaration and the eye-witnesses disbelieved — *Held*, it cannot be laid down as a rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated: No. 120
East Punjab Urban Rent Restriction Act (30 of 1949)

See under HOUSES AND RENTS.

EDUCATION

— **Delhi University Act (8 of 1922), S. 30 —**
See No. 95

Electricity Act (9 of 1910), Ss. 3 (1) and 3 (2)
No. 24

Essential Commodities Act (10 of 1955), S. 7
— Sugar-Cane Control Order, 1955 — R. 3 (iii)
No. 136

Evacuee Interest (Separation) Act (64 of 1951), S. 10 (b) — Mortgagor's property declared evacuee property — Mortgage can be satisfied by sale of property under the Act
No. 185

Evidence Act (1 of 1872), S. 45—See No. 18

—S. 47 — See No. 18

—S. 67 — See No. 18

—S. 114 (b) — See No. 46

—S. 115 — See No. 53

—S. 115 — Estoppel

No. 125.

—S. 124 — See No. 46

—S. 132 — See No. 152

—S. 133 — See No. 46

Factories Act (63 of 1948), S. 2 (1) No. 164

—S. 62 — See No. 33

Foreigners Act (31 of 1946)—Registration of Foreigners Act (1939) — Citizenship Act (1955), S. 8 — Goa, Daman and Diu (Citizenship) Order (1962)—Geneva Conventions Act (1960)
No. 25

Foreign Exchange Regulation Act (7 of 1947), Ss. 4 (1), 5 (1) (e), 23 (1) (a), 23 (1) (b) and 23 (d) (1)
No. 135

—Ss. 4 (3), 5 (1) (e) and 9, 21 (1) — Agreement for evasion of the provisions of the Act
No. 166

—S. 8 (1) — See No. 46

Forest Services (Initial Recruitment) Regulation (1966)
See under CIVIL SERVICES.

Geneva Conventions Act, 1960—See No. 25

Goa, Daman and Diu (Citizenship) Order (1962)
See No. 25

Gold Control Act, 1968, Ss. 5 (2) (b), 27 (2) (d), 27 (6), 32, 46, 55 and 100 No. 117

Constitution of India (contd.)

inherit the private property of the ex-ruler
— Recognition does not violate Arts. 19 (1)
(f), 31 No. 179

— *Art. 19 (1) (g)*—Madhya Pradesh Municipal Corporation Act (23 of 1956) No. 14

— *Art. 19 (1) (g)*—Freedom of trade—Prescribed minimum wages do not interfere with the freedom of trade—A trade has no right to continue if it cannot pay minimum wages No. 180

— *Art. 19 (6), Art. 304 (b)*—Madhya Pradesh Tendu Patta (Vyapar Viniyaman) Act (XXXIX of 1964), S. 5 (1) and S. 5(2)(b)—Rules (1965) under the Act—Rule 9 No. 94A

— *Art. 19 (6)*—“Law relating to monopolies”—Meaning of No. 94B

— *Art. 20 (3)*—See No. 152

— *Art. 21*—See No. 70

— *Art. 22, Clauses 4 & 5*—Preventive Detention Act, 1950—S. 3 (1) (a) (ii) & (iii) No. 109

— *Art. 25*—See No. 13

— *Art. 25*—Preventive Detention Act—Delay of two months in considering the representation of the detenus—Illegal No. 182

— *Art. 26*—See No. 13

— *Art. 31*—See No. 13

— *Art. 31 (A) Proviso 2*—See No. 128

— *Art. 32*—See No. 182

— *Art. 133*—Civil P. C. (1908), S. 11—Plea of res judicata No. 17

— *Art. 133*—Evidence Act (1872), Ss. 67, 47, 45—Civil P. C. (1908), Ss. 96, 100—Reappraisal of evidence—Appeal by special leave No. 18

— *Art. 133 (1) (c)* No. 16

— *Art. 134 (1) (c) (1)* No. 105

— *Art. 136*—Supreme Court practice of permitting arguments on facts and contentions on grant of special leave No. 19

— *Art. 136*—High Court's order in favour of the appellant—Appeal under Art. 136 cannot lie only on the basis of the observations of the High Court favourable to the appellant No. 114

— *Art. 136*—Re-appreciation of evidence—Defence evidence totally ignored by the High Court—Supreme Court can reconsider the evidence in spite of concurrent findings of facts No. 172

— *Art. 136*—Special leave—Only ground of punishment—Should be granted in exceptional cases—Sentence—Judicial discretion No. 176

— *Art. 191*—Office of profit under Government—Advocate appointed as a special Government Pleader for some arbitration cases—(Per majority) Does not hold office of profit No. 175

Constitution of India (contd.)

— *Arts. 226 and 227*—Natural justice No. 20

— *Article 226* No. 98

— *Art. 226*—Writ of mandamus—Alternate remedy—Whether arbitration under S. 15 of the Telegraph Act, 1885, a proper remedy, in a dispute over rental payable for erection of electric poles—Held, S. 15 inapplicable No. 163

— *Arts. 226 and Art. 32*—Res judicata—Habeas Corpus—Habeas Corpus petition to High Court does not bar a similar petition to the Supreme Court—Respondent not entitled to invoke the principle of res judicata as complete record regarding the petition before the High Court was not produced No. 182

— *Article 227* No. 20

— *Article 227* No. 57

— *Article 227*—See No. 73

— *Arts. 233 and 235*—Promotion of a District Judge—Promotion to the post of an Additional District Judge can be ordered by the Governor, in consultation with the High Court under Art. 233—Not within the power of the High Court under Art. 235 No. 167

— *Art. 235*—See No. 167

— *Art. 286 (1)*—Central Sales-tax Act, 1956—S. 5 (2)—Madras General Sales-tax Act, 1959 No. 122

— *Art. 286 (1) (a)*—See No. 138

— *Art. 295*—Liability of a successor State No. 181

— *Art. 301*—Liability to sales tax created by the notification and the amending Act does not put restriction on freedom of trade or commerce outside the State No. 130

— *Art. 311*—Removal, what amounts to—Saurashtra Covenanted States Servants (Superannuation Age) Rules, 1955—Bombay Civil Service Rules (1959), R. 161—Reorganisation of States Act (1956), S. 115 (7) No. 54

— *Article 311* No. 118

— *Art. 311*—‘Quasi-permanent’—The status depends on express declaration No. 155

— *Art. 311 (2)* No. 21

— *Art. 311 (2)*—Bombay Reorganisation Act (1960), Ss. 60 and 61 No. 22

— *Art. 311 (2)* No. 60

— *Art. 366 (22)*—Ruler—Right of recognition of the President No. 179

— *Sch. 7 Last I, Entry No. 3, Sch. 7 List II, Entry 18* No. 107

— *Sch. VII, Last II, Entry 18*—See No. 107

— *Sch. 7 Last 2 Entry 52*—See No. 37

Contract Act (9 of 1872)—Damages for breach No. 93

— *S. 10*—Deed—Construction No. 66

— *S. 63*—“Waiver”—‘Neither agreement’ nor ‘consideration’ necessary No. 168

Contract Act (contd.)

—S. 74—A sum payable for the breach of the auction sale should not be in the nature of penalty—Liability to extent of actual loss
No. 178

CO-OPERATIVE SOCIETIES

—Andhra Pradesh Co-operative Societies Act
—S. 61—See No. 34
—Madhya Pradesh Co-operative Societies Act, 1960—S. 82
No. 158

COURT-FEES AND SUITS VALUATIONS

—U. P. Court-fees Act, Sch. II, Cl. 17 (iii)—
S. 7 (IV-A)
No. 187

Criminal Procedure Code (5 of 1898), S. 258—
See No. 184

—S. 410—See No. 184

—S. 417—See No. 124

—S. 417—See No. 184

—S. 419, Ss. 258, 410, 417 and 423 — Joint appeal in the High Court by the State where several accused persons were jointly tried and acquitted by the Trial Court — Appeal valid
No. 184

—S. 423
No. 165

—S. 423—See No. 184

—S. 465
No. 119

—S. 468
No. 121

—S. 503—See No. 46

—S. 561-A
No. 135

DEBT LAWS

—Madras Agriculturists' Relief Act (IV of 1938), S. 19 (1) — Madras Merged States (Laws) Act (XXXV of 1949) — "Commencement" of Act in relation to merged State — What is
No. 23

Delhi and Ajmer Rent Control Act (38 of 1952)
See under Houses and Rents.

Delhi Municipal Corporation Act (1965)
See under Municipalities.

Delhi Rent Control Act (59 of 1958)
See under Houses and Rents.

Delhi University Act (8 of 1922)
See under Education.

Desai Award (1962), Chap. 5 (xxiii) No. 101

Displaced Persons (Claims) Act (44 of 1950)
No. 171

Displaced Persons (Claims) Supplementary Act (12 of 1954), S. 5 (1) (b) No. 171

Displaced Persons (Compensation and Rehabilitation) Act (44 of 1954), S. 29 — Delhi Rent Control Act, S. 3, Proviso No. 103

Displaced Persons (Verification of Claim) Supplementary Rules (1954), R. 18 No. 171

Dying Declaration—Conviction based solely on the dying declaration and the eye-witnesses disbelieved — *Held*, it cannot be laid down as a rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated: No. 120
East Punjab Urban Rent Restriction Act (30 of 1949)

See under HOUSES AND RENTS.

EDUCATION

— **Delhi University Act (8 of 1922), S. 30 —**
See No. 95

Electricity Act (9 of 1910), Ss. 3 (1) and 3 (2)
No. 24

Essential Commodities Act (10 of 1955), S. 7
— Sugar-Cane Control Order, 1955 — R. 3 (iii)
No. 136

Evacuee Interest (Separation) Act (64 of 1951), S. 10 (b) — Mortgagor's property declared evacuee property — Mortgage can be satisfied by sale of property under the Act
No. 185

Evidence Act (1 of 1872), S. 45—See No. 18

—S. 47 — See No. 18

—S. 67 — See No. 18

—S. 114 (b) — See No. 46

—S. 115 — See No. 53

—S. 115 — Estoppel
No. 125

—S. 124 — See No. 46

—S. 132 — See No. 152

—S. 133 — See No. 46

Factories Act (63 of 1948), S. 2 (1) No. 164
—S. 62 — See No. 33

Foreigners Act (31 of 1946)—Registration of Foreigners Act (1939) — Citizenship Act (1955), S. 8 — Goa, Daman and Diu (Citizenship) Order (1962)—Geneva Conventions Act (1960)
No. 25

Foreign Exchange Regulation Act (7 of 1947), Ss. 4 (1), 5 (1) (e), 23 (1) (a), 23 (1) (b) and 23 (d) (1)
No. 135

—Ss. 4 (3), 5 (1) (e) and 9, 21 (1) — Agreement for evasion of the provisions of the Act
No. 166

—S. 8 (1) — See No. 46

Forest Services (Initial Recruitment) Regulation (1966)

See under CIVIL SERVICES.

Geneva Conventions Act, 1960—See No. 25

Goa, Daman and Diu (Citizenship) Order (1962)
See No. 25

Gold Control Act, 1968, Ss. 5 (2) (b), 27 (2) (d), 27 (6), 32, 46, 85 and 100 No. 117

Governmental liability in torts — Death due to negligent and rash driving of the Motor driver in the employ of the Government — Government held liable No. 89

Government of India Act (1935) (26 Geo. V & 1 Edw. VIII, C 2), List 1, Entry 43 — See No. 138

Gratuity — One month's wages for each year — Gratuity related to total wage packet — Held relation of gratuity to consolidated wages not justified — As a normal rule it should be related to the basic wages only — Gratuity equal to one month's wages for each year held justified No. 131

Gujarat Imposition of Taxes by Municipalities (Validation) Act, 1963 (2 of 1964)

See under Municipalities

High Court's duty in matters of Criminal Appeal — The accused was held guilty under S. 420 read with S. 511, I. P. C., for cheating the Government in matter of transit insurance and was sentenced to undergo imprisonment and fine — The appeal was dismissed by the High Court — High Court should apply its mind No. 123

HIGH COURTS RULES AND ORDERS

—Bombay High Court Appellate Side Rules 1960, R. 6 — Joint appeal — Rule not inconsistent with the provisions of Criminal Procedure No. 184

Hindu Adoptions and Maintenance Act (78 of 1956), S. 4 — See No. 121

Hindu Marriage Act (25 of 1955), S. 12 (1) No. 110

Hindu Succession Act (30 of 1956), Ss. 2, 4 (1) (a) — Punjab Custom (Power to Contest) Act, 1920, S. 6 — Code of Civil Procedure (1908), O. 41, R. 33 No. 58

HOUSES AND RENTS

—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 12 (3) (b) — Whether the decree of ejection can be passed in favour of the assignee of the arrears of rent together with the premises No. 72

—Delhi and Ajmer Rent Control Act (38 of 1952), S. 13 (1) (h) — Delhi Rent Control Act, 1958, S. 14 (1) (b) No. 74

—Delhi Rent Control Act (59 of 1958), S. 3, Proviso

—Ss. 14 (1), 57 (1), 1st Proviso to S. 57 (2) No. 26

—S. 14 (1) (e) — Landlord claiming possession for bona fide use and occupation — The

Houses and Rents — Delhi Rent Control Act (contd.)

reason that the landlord is not used to living in a place where somebody else is living — Whether bona fide — Held, the requirement is not bona fide No. 186

—S. 14 (1) (h) — See No. 74

—S. 57 (1), 1st Proviso to S. 57 (2) — See No. 26

—East Punjab Urban Rent Restriction Act (3 of 1949) — Landlord and tenant — Definition depends upon a right to receive rent and duty to pay rent — No application where lease is determined by the redemption of mortgage where mortgagee was a lessor No. 185

—Kerala Buildings (Lease and Rent Control) Act (16 of 1959), S. 11 — Kerala Buildings (Lease and Rent Control) Act, 1965, S. 34(1) — Whether the eviction suit under the Act of 1959 filed after the passing of 1965 Act was maintainable — Kerala Buildings (Lease and Rent Control) Act, 1965, S. 20 — Civil P. C. (1908), S. 115 — Revision powers No. 81

—Kerala Buildings (Lease and Rent Control) Act (1965), S. 20 — See No. 81
—S. 34 (1) — See No. 81

—Madhya Pradesh Accommodation Control Act (23 of 1955), S. 3 (2) — Non-application of mind by the Government in granting the exemption — Reasons not germane to the purpose of the Act No. 83

—Madras Buildings (Lease and Rent Control) Act (18 of 1960), Ss. 3 (b) and 4 (2) — Madras Buildings (Lease and Rent Control) Rules, 1960, Rules 11, 12, 13 and 14 No. 157
—S. 4 (2) — See No. 157

—Madras Buildings (Lease and Rent Control) Rules, 1960, R. 11 — See No. 157
—R. 12 — See No. 157
—R. 13 — See No. 157
—R. 14 — See No. 157

—Mysore Rent Control Act, 1961, S. 20 (4) — Bona fide requirement — Hardship — Onus of proof No. 88

—Rajasthan Premises (Control of Rent and Eviction) Act (17 of 1950), S. 13 (1) (e) No. 67

—U. P. (Temporary) Control of Rent and Eviction Act (3 of 1947), Ss. 3 (3), 7-F, 16 No. 27

—West Bengal Premises Rent Control (Temporary Provisions) Act (17 of 1950), S. 12 (1) — Transfer of Property Act, S. 113 — West Bengal Premises Tenancy Act (1956), S. 24 No. 28

- Imports and Exports (Control) Act (18 of 1947), S. 5**—See No. 152
- Income Tax Act (11 of 1922)** — Valuation of bonus shares *pari passu* No. 29
 — Ss. 10, 17, 23 No. 30
 — Ss. 10 (2) (vi) and 10 (2) (vi) (a) — Income Tax Rules (1922), Rule 33 No. 31
 — Ss. 10, 12 No. 144
 — S. 17—See No. 30
 — S. 23—See No. 30
 — Ss. 25 (1), (2), 26 (2); 28 (c); 44 No. 59
 — S. 34 No. 137
- Income-tax Act (43 of 1961), S. 132** No. 127
- Income Tax Rules (1922), R. 33**—See No. 31
- Industrial Disputes Act (14 of 1947)** — Legality of Tribunal's Award — Claim for increase in wages and dearness allowance — Principles of industry-cum-region and financial capacity No. 32
 — Grant of D. A. by tribunal — Financial capacity of Company — Dearness allowance relates to the total wage packet in case of certain workmen—Held, the financial capacity was sound and therefore, the relation of dearness allowance to the total wage packet was not unjustified No. 131
 — Scope of the powers of the Labour Court—Cannot sit as a Court of Appeal over the Inquiry Officers No. 140
 — S. 2 (4)—Matters incidental—Section 10 (2) (iv) No. 63
 — S. 2 (a) No. 69
 — S. 2 (RR)—See No. 53
 — S. 7-A—Powers of the Tribunal — Discharge simpliciter — Standing Orders No. 61
 — Ss. 9A, 19A — Factories Act, S. 62 — Sunday made a working day — Right of workmen to extra wages No. 33
 — S. 10 No. 62
 — S. 10 (1) (d)—Andhra Pradesh Co-operative Societies Act, S. 61 No. 34
 — S. 11—Procedure to be followed by the Tribunal—Shutting management's evidence — Award suffers from infirmity No. 183
 — S. 19-A—See No. 33
 — S. 33-C (2) No. 101
- Industrial Employment (Standing Orders) Act (20 of 1946)** No. 146
 — Schedule — Item II — Rajasthan Industrial Employment (Standing Orders) Rules, 1963 — Model standing orders appended to the Rules No. 132
- Industries (Development & Regulation) Act (65 of 1951)** No. 117
- Jammu and Kashmir Constitution, S. 51, Clause (a)** No. 97
- Jammu and Kashmir Representation of the People Act (4 of 1957)** No. 35
- Jammu and Kashmir Representation of the People Act, 1967, S. 98 (1)** — Admissibility of new evidence where the fresh ground is raised — S. 24 (b) — Interest in a subsisting Government contract No. 75
- Kerala Agricultural Income-tax Act** No. 100
- Kerala Buildings (Lease and Rent Control) Act (16 of 1959)**
 See under Houses and Rents.
- Kerala Buildings (Lease and Rent Control) Act (2 of 1965)**
 See under Houses and Rents
- Land Acquisition Act (1 of 1894), Ss. 4, 23** — Successive notifications under S. 4 — Constitution of India, Art. 227 — Jurisdiction of the High Court does not extend to correct the finding of the District Court on the matter of compensation No. 73
 — S. 23 — See No. 73
 — S. 23 — Consideration of potential value No. 82
- Limitation Act (9 of 1908), S. 12** — See No. 48
 — S. 29 (2) — See No. 48
- Limitation Act (36 of 1963), Art. 137** No. 101
- Madhya Bharat Abolition of Jagirs Act (28 of 1951)**
 See under Tenancy Laws.
- Madhya Pradesh Abolition of Proprietary Rights Act (1 of 1951)**
 See under Tenancy Laws.
- Madhya Pradesh Accommodation Control Act (23 of 1955)**
 See under Houses and Rents.
- Madhya Pradesh Co-operative Societies Act (18 of 1960)**
 See under Co-operative Societies.
- Madhya Pradesh Government Servants (Temporary and Quasi Permanent Service) Rules, 1960**
 See under Civil Services.
- Madhya Pradesh Municipal Corporation Act (23 of 1956)**
 See under Municipalities.
- Madhya Pradesh Service Rules**
 See under Civil Services.
- Madhya Pradesh Tendu Patta (Vyapar Viniyaman) Act (39 of 1964), S. 5 (1) (2) (b)**—See No. 94A
- Madras Agriculturists Relief Act (4 of 1938)**
 See under Debt Laws.
- Madras Buildings (Lease and Rent Control) Act (18 of 1960)**
 See under Houses and Rents
- Madras Buildings (Lease and Rent Control) Rules, 1960**
 See under Houses and Rents.

Madras Estates (Abolition and Conversion into Ryotwari) Act (26 of 1948)

See under Tenancy Laws.

Madras General Sales Tax Act (9 of 1939)

See under Sales Tax.

Madras General Sales Tax Act (1 of 1959)

See under Sales Tax.

Madras Merged States (Laws) Act (35 of 1949) No. 23

Maharashtra Municipalities Act (40 of 1965)

See under Municipalities.

Mala fides — Complaint not bona fide — Per Hegde J. No. 166

Mineral Concession Rules, 1960—Rules 54 and 55 No. 115

Mines and Minerals (Regulation and Development) Act (67 of 1957) No. 104

Minimum Wages Act (11 of 1948), S. 51(a)—
Government may not appoint a committee under the Section if it is in possession of the adequate data No. 180

Motor Transport Workers Act, 1961 (Madhya Pradesh)—S. 2(g) No. 159

MUNICIPALITIES

—Bombay Municipal Boroughs Act (18 of 1925) — Gujarat Imposition of Taxes by Municipalities (Validation) Act, 1963

No. 102

—Delhi Municipal Corporation Act, 1965—S. 476(1)(h) No. 124

—Gujarat Imposition of Taxes by Municipalities (Validation) Act (1963) (2 of 1964)—
See No. 102

—Madhya Pradesh Municipal Corporation Act (23 of 1956) No. 14

—Maharashtra Municipalities Act (40 of 1965), S. 21(1)(7) No. 9

—Mysore Municipalities Act (22 of 1964), S. 382 — Continuation application of the Madras District Municipalities Act, 1920 for certain purposes — Tax assessed on the basis of Madras Act and higher rate of tax prescribed by the Madras Act availed of by the Mysore Municipality — Held, house tax levied not valid No. 173

—Punjab Municipal Act (3 of 1911), S. 61(2) — Constitution of India, Entry 52, List 2, VIIth Schedule No. 37

—U. P. Municipalities Act (2 of 1916), S. 298 (2)(h)(m)—*See* No. 6

Mysore Jail Service Cadre Recruitment Rules (1960)

See under Civil Services.

Mysore Municipalities Act (22 of 1964)

See under Municipalities.

Mysore (Personal and Miscellaneous) Inams Abolition Act (1 of 1955)

See under Tenancy Laws.

Mysore Rent Control Act, 1961

See under Houses and Rents.

Natural Justice—Hearing the appeal by the Conservator of Forests without giving opportunity to the respondent to represent his matter — Power to hear appeal implies the obligation to hear it judicially No. 129

—Whether fixing of minimum wages a quasi-judicial function — No failure of natural justice principle as adequate opportunity was given No. 180

—Rule 12 did not require that a show cause notice should be given to the appellant — No violation of Natural Justice principles No. 118

Orissa Land Reforms Act (16 of 1960)

See under Tenancy Laws.

Orissa Land Reforms (Amendment) Act (13 of 1965)

See under Tenancy Laws.

Orissa Sales Tax Act (14 of 1947)

See under Sales Tax.

PANCHAYATS

—U. P. Panchayat Raj Act (26 of 1947), S. 95 (1)(g) No. 39

Partnership Act (9 of 1932), S. 14 No. 77

Payment of Bonus Act (21 of 1965), S. 6(d) read with Sch. 3 No. 68

Penal Code (45 of 1860), S. 34—*See* No. 79

—S. 34—*See* No. 161

—S. 120—*See* No. 46

—S. 120-B—Sea Customs Act, S. 167 (81)—
The Imports and Exports (Control) Act, 1947,
S. 5 — Evidence Act, S. 132 — Constitution
of India, Art. 20 (3) No. 152

—S. 120-B —Conspiracy — Accumulation
of foreign exchange in violation of rules
regarding repatriation No. 166

—S. 148—No clear finding on the exact
weapon used — General finding that the
weapon was sharp-edged — No interference
with High Court order called for No. 86

—S. 148—*See* No. 113

—S. 149—*See* No. 79

—S. 149—*See* No. 113

Mysore General Service (Printing, Stationery and Publication Branch) Cadre and Recruitment Rules, 1950

See under Civil Services.

Penal Code (contd.)

- S. 149—See No. 147
 —S. 161—See No. 172
 —S. 302 No. 40
 —Ss. 302, 149 and 34—Absence of a specific charge under S. 34—Conviction for common intention No. 79
 —Ss. 302, 304 (1) — Change of conviction from 304 (1) to 302 (2) held justified—Death sentence—Justification of No. 80
 —Ss. 302 and 307—Appeal by the State on the question of sentence only—Accused had already served thirty-three month's imprisonment — Imposition of death sentence held improper No. 87
 —S. 302—Some of the respondents armed with bhalas—Not possible to say who were so armed and who inflicted vital wounds—Conviction under S. 302 cannot be maintained—Section 302 read with 34 of I. P. C. —Common intention of the respondents was to prevent the theft and not to murder the deceased—No conviction under S. 302 read with S. 34—Section 302 and S. 149 of I. P. C. —Exercise of right of private defence of property—Injuries caused during—No common object or no common knowledge of the members of the assembly that murder would be caused—Some members exceeding the right of private defence — No constructive liability for all — No conviction under S. 302 read with S. 149 No. 90
 —S. 302 — Evidence Act — Hearsay evidence No. 111
 —Ss. 302, 149 and 148 — Common object not of causing death but of causing grievous hurt — Conviction converted to one under S. 326 read with S. 149, I. P. C. No. 113
 —Ss. 302 324, 326 No. 134
 —Ss. 302, 325 read with S. 34—"Sentence"—Reduction of sentence on the ground of imprisonment already undergone No. 174
 —S. 304 (1)—See No. 80
 —S. 307—See No. 87
 —Ss. 323, 324 and 325—Penal Code, S. 149 No. 147
 —S. 324—See No. 134
 —S. 325 read with S. 34—See No. 174
 —S. 326—See No. 134
 —Ss. 396, 394 No. 99
 —Ss. 396, 411 and 412—Recovery of stolen property from the appellant — By itself not sufficient to convict the accused either for murder or dacoity — The only evidence against the appellant was three cotton lengths recovered—Held, no conviction under S. 396 or 412 but only under S. 411 No. 177

Penal Code (contd.)

- S. 411—See No. 177
 —S. 412—See No. 177
 —Ss. 415 and 420, 34—Cheating—Causing damage of harm to property — False representation to Railway in a forwarding note — Under Railway rules no liability in such case—No cheating No. 161
 —S. 420—See No. 91
 —S. 420—See No. 161
 —Ss. 471 and 420 — Allocation of forged motor driving licences — The High Court acquitting the accused of the offence under S. 471, I. P. C., but sustaining conviction under S. 420, I. P. C.—Conviction held not justified No. 91

Police Act (5 of 1861), S. 4 — Punjab Police Rules (1934), R. 16 (1), 16.24, 16.38 No. 41

Public Employment (Requirement as to Residence) Act (44 of 1957), S. 3 — Andhra Pradesh Public Employment (Requirement as to Residence) Rules, 1959 No. 42

Powers of the Appellate Court in Disposing of Appeal — Amendment of charge with an opportunity to the accused to meet the same — What was ordered by the High Court was not a "new trial" No. 165

Prevention of Corruption Act (2 of 1947), Ss. 5 (1) (a) 5 (1) (d), 5 (2) and 5 (3) No. 106
 —Ss. 5 (1) (d) and 5 (2)—Indian Penal Code, S. 161 — Illegal gratification by a public servant No. 172

Prevention of Food Adulteration Act (37 of 1954), R. 12-A No. 156
 —S. 29 No. 124

Preventive Detention Act (4 of 1950)
 See under PUBLIC SAFETY.

Provincial Insolvency Act (5 of 1920), S. 20 — Interim Receiver — Auction of Property (Receiver) — R. 86, O. 21, Civil P. C., not applicable to such auction sale No. 178

PUBLIC SAFETY

— Preventive Detention Act (4 of 1950), S. 3 (1) (a) (ii) and (iii) — See No. 109
 —S. 3 (2) and Penal Code — Grounds of detention fall under offences under Indian Penal Code — Whether detention under Preventive Detention Act bad—Held, detention under Preventive Detention Act was legal No. 141

Punjab Civil Service Rules
 See under CIVIL SERVICES.

Punjab Custom (Power to Contest) Act (2 of 1920), S. 6

See No. 58.

Punjab General Sales Tax Act (46 of 1948)

See under SALES TAX.

Punjab Municipal Act (3 of 1911)

See under MUNICIPALITIES.

Punjab Police Rules (1934)

See under CIVIL SERVICES.

Punjab Security of Land Tenures Act (10 of 1953)

See under TENANCY LAWS.

Rajasthan Premises (Control of Rent and Eviction) Act, 1950 (17 of 1950)

See under HOUSES AND RENTS.

Registration of Foreigners Act (16 of 1939)

See No. 25

Reorganization of States Act (37 of 1956), S. 115 (7) — See No. 54**Representation of the People Act (43 of 1950), S. 23 (3)**

No. 150

Representation of the People Act (43 of 1951), Ss. 2 (1), 33 (1) and 36 (4) — Conduct of Election Rules (1961), R. 2 (2) — Nomination paper bearing thumb impression of the proposer — Not authenticated or attested in the presence of the Returning Officer — Attestation not a mere formality — Provisions mandatory—Defect cannot be rectified after the last date of nomination

No. 116

—S. 9-A

No. 64

—Ss. 16 (1) and 62

No. 151

—S. 23 (3)

No. 151

—S. 33 (1)—See No. 116

—S. 36 (4)—See No. 116

—S. 47

No. 153

—S. 80

No. 175

—S. 82 — Parties to the petition — For making person a party he must be a candidate of the same election

No. 175

—S. 123 (4)—Allegations that the respondent made statements regarding association of respondent No. 2 with the dacoits, misappropriation etc.—Held not proved

No. 116

—S. 123 (4)

No. 170

—S. 123(1)(A)—Bribery — Promise of funds for School Building

No. 170

—S. 123 (2)

No. 43

—S. 123 (2) (a) (ii)

No. 44

—S. 123 (2) and (3)—Divine displeasure or spiritual censure—Alleged speeches by the agent of the respondent — Bringing undue influence on the voters—Sin of cow slaughter—Held not proved—Sections 77, 123 (6) — Expenses more than the permitted limit—Money received from the party—Expenses not proved

No. 142

SALES TAX

—Bombay Sales Tax Act, 1933, Ss. 34 (1), 34 (4), 34, (5) No. 76

—Central Sales-tax Act (74 of 1956), S. 5 (2) —See No. 122

—S. 14—See No. 45

—S. 15—See No. 45

—Central Sales Tax (Amendment) Ordinance, 1969, S. 4, S. 9 (2)—Whether sales were liable to the Central sales-tax which were not liable under the Kerala Sales Tax Act—Held, the 1969 Ordinance which has come into operation with retrospective effect has clarified that such sales are liable under the Central Sales-tax Act No. 154

—Madras General Sales Tax Act (9 of 1939), S. 2 (H), Explanation 2—Government of India Act (1935), Entry 43, List II—Madras General Sales Tax Act, 1939, Section 22—Constitution of India, Article 286 (1) (a) No. 139

—Madras General Sales-tax Act (1 of 1959) —See No. 122

—Exemption enjoyed by "cane jagger" withdrawn by certain Notifications issued under S. 59 (1) of the Act, which was later on incorporated by an Amending Act in 1968—Exemption to "Palm Jagger" was not discriminatory (as against "Cane Jagger") as the classification was reasonable No. 130

—Orissa Sales Tax Act (14 of 1947), S. 2 (g)—'Sale' — The appellant company supplied brick, coal, cement, steel etc., to the contractors employed for certain construction work — Certain additional charges over and above the actual cost of the material levied—Held the evidence was inadequate to conclude that the additional amounts collected were towards profit No. 139

—Punjab General Sales Tax Act (46 of 1948), S. 5 (2) (a) (vi)—Central Sales Tax Act, 1956, Ss. 14 and 15 No. 45

—Travancore-Cochin General Sales Tax Rules (1950), R. 33 No. 148

Sastry Award (1953), Para. 164 (b) No. 101

Sea Customs Act (8 of 1878), S. 167 (81)—Foreign Exchange Regulation Act (1947), S. 8 (1), Penal Code: S. 120 (b), Criminal P. C.—Section 503—Evidence Act, S. 114, Ill. (b) and Ss. 133 & 124 No. 46

—S. 167 (81)—See No. 152

Strike and lock-out both illegal—Apportionment of blame — Wages — Half month's wages No. 183

Succession Act (39 of 1925), S. 105 No. 47

Sugar Cane Control Orders 1955, R. 3 (iii) — See No. 136

TENANCY LAWS

—Andhra Pradesh (Andhra Area) Estates Communal Forest and Private Lands (Prohibition of Alienation) Act (14 of 1947), S. 4 — Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 No. 78

—Bengal Tenancy Act (8 of 1885), S. 26F — Pre-emption—Waiver No. 168

—Madhya Bharat Abolition of Jagirs Act (28 of 1951), Ss. 29, 30 — Limitation Act, Ss. 12, 29 (2)—Ryotwari Land Revenue and Tenancy Act, Ss. 34 and 149 (2) No. 48
—S. 30—See No. 48

—Madhya Pradesh Abolition of Proprietary Rights Act, 1950 (1 of 1951), Ss. 5 and 251 No. 49
—S. 251—See No. 49

—Madras Estates (Abolition and Conversion into Ryotwari) Act (26 of 1948)—See No. 78

—Mysore (Personal and Miscellaneous) Inams Abolition Act (1 of 1955), S. 3 — See No. 56
—S. 5—See No. 56
—S. 10—See No. 56

—Orissa Land Reforms Act (16 of 1960), Chap. 4—See No. 128

—Orissa Land Reforms (Amendment) Act (13 of 1965), Chap. 4—Ceiling on land and a rate of compensation provided for by the Orissa Land Reforms Act (XVI) 1960 was reduced —The law relating to the ceiling limit in Chap. 4 of the 1960 Act had not come into operation — Challenge based on Art. 31 (A) was negatived as no ceiling was fixed, before the 1965 Act was passed — Ceiling limit on date of acquisition relevant—Tenancy Laws — Orissa Land Reforms Act (16 of 1960), Chap. 4 — Constitution of India, Art. 31 (A), Proviso 2) No. 128

—Punjab Security of Land Tenures Act (10 of 1953), S. 8—See No. 51
—S. 9—See No. 51
—S. 18—See No. 51
—S. 21—See No. 51
—S. 22—See No. 51
—S. 32—See No. 51
—S. 45—See No. 51

Tenancy Laws (contd.)

—U. P. Consolidation of Holdings Act, 1953 (5 of 1954), Ss. 5 (5) (i) and 16 (a) — U. P. Tenancy Act, Ss. 16 and 80 No. 50

—U. P. Tenancy Act (17 of 1939), Ss. 15, 80 — See No. 50

—West Bengal Premises Tenancy Act, 1956 (12 of 1956) No. 107

—S. 24—See No. 28

Transfer of Property Act (4 of 1882), S. 76(a) — Punjab Security of Land Tenures Act, 1953, Ss. 21, 32, 45, S. 9 (1), 15, 22 No. 51

—S. 76 (a) — Mortgagee in possession—Duty to act with ordinary prudence—Granting a building lease for a long duration no exercise of prudence — Does not bind the purchaser on redemption No. 185

—S. 111-C — Determination of a lease where the interest of the lessor determines—Mortgagee-lessor's interest is determined with the mortgage — Relationship of landlord and tenant comes to an end No. 185

—S. 113—See No. 28

—S. 150—See No. 56

Travancore-Cochin General Sales Tax Rules (1950)

See under Sales Tax

U. P. Cinematograph Rules, 1951—See No. 6

U. P. Cinemas (Regulation) Act (3 of 1956) No. 6

U. P. Consolidation of Holdings Act (5 of 1954)

See under Tenancy Laws

U. P. Court-fees Act

See under Court-fees and Suits Valuations

United Provinces Legislative Department Rules, R. 7 No. 96

U. P. Municipalities Act (2 of 1916)
See under Municipalities

U. P. Panchayat Raj Act (26 of 1947)
See under Panchayats

U. P. (Temporary) Control of Rent and Eviction Act (3 of 1947)
See under Houses and Rents

U. P. Tenancy Act (17 of 1939)
See under Tenancy Laws

Wealth Tax Act (27 of 1957), S. 3 No. 52
—S. 7 (2)—Net value as shown in the balance sheet is a proper basis for the assess-

Wealth Tax Act (contd.)

ment unless the tax authorities are convinced
that the figures are inflated for acceptable
reasons

No. 143

—S. 7 (2) (a)

No. 145

—S. 27 (6)

No. 145

West Bengal Premises Rent Control (Temporary Provisions) Act (17 of 1950)

See under Houses and Rents

West Bengal Premises Tenancy Act (12 of 1956) See under Tenancy Laws

"Worker"—Time-keepers—Whether workers
— Considering the nature of duties they can
be treated as workers

No. 164

**Working Journalists (Conditions of Service)
and Miscellaneous Provisions Act (45 of 1955),**
Ss. 2 (c), 5 and 17 — Industrial Disputes Act,
S. 2 (RR)—Evidence Act, S. 115

No. 53

—S. 5—See No. 53

—S. 17—See No. 53

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[Vol. 56]

SUPREME COURT SECTION

WITH COMPARATIVE TABLES FOR

- (1) SUPREME COURT REPORTS
- (2) SUPREME COURT JOURNAL
- (3) SUPREME COURT DECISIONS
- (4) SUPREME COURT WEEKLY REPORTER

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SUPREME COURT OF INDIA

1969

CHIEF JUSTICE:

The Hon'ble Mr. Justice Mohd. Hidayatullah.

PUISNE JUDGES:

The Hon'ble Mr. Justice J. C. Shah.

"	"	S. M. Sikri.
"	"	R. S. Bachawat (up to 1-8-69).
"	"	V. Ramaswami (up to 30-10-69).
"	"	J. M. Shelat.
"	"	V. Bhargava.
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"	"	A. N. Ray (From 1-8-69).
"	"	P. Jaganmohan Reddy (From 1-8-69).
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NOMINAL TABLE

A. I. R. 1969 S. C.

Abdul Jabbar Sahib, M. L. v. H. Venkata Sastri and Sons	(Dec) 1147	Chaturbhuj Pande v. Collector, Raigarh	(Mar) 255
Abdul Rahiman Khan v. Sadasiva Tripathi	(Apr) 302	Chhatu Ram Horil Ram Private Ltd. v. State of Bihar	(Mar) 177
Amalgamated Electricity Co. (Belgaum) Ltd. v. Municipal Committee, Ajmer	(Mar) 227	Chief Settlement Commissioner, Punjab v. Ajit Singh Kalha : See (Jan) 33	
Arati Paul v. Registrar, Original Side, High Court, Calcutta	(Dec) 1133	Chief Settlement Commissioner, Punjab v. Om Parkash	(Jan) 33
Ashiq Miyan v. State of Madhya Pradesh	(Jan) 4	Choklinga Sethurayar v. Arumanayakam	(July) 569
Baburam Prakash Chandra Maheshwari v. Antarim Zila Parishad now Zila Parishad, Muzaffarnagar	(July) 556	Commissioner of Income-tax, Andhra Pradesh v. A. Dharma Reddy (dead)	(Nov) 940
Baladin Ram v. Commissioner of Income-tax, U. P.	(May) 351	Commissioner of Income-tax, Bangalore v. Union Tile Exporters, Bangalore	(Apr) 299
Balak Singh v. Waqf Alu-Allah Kayamkarda Ahmad Ullah Khan Saheb	(Dec) 1270	Commissioner of Income-tax, Bihar v. Ramniklal Kothari	(Oct) 862
Balchand v. Income-tax Officer, Sagar	(June) 496	Commissioner of Income-tax, Bihar and Orissa v. Kirkend Coal Co.	(Dec) 1352
Baliah, T. S. v. Income-tax Officer, Central Circle VI, Madras	(Aug) 701	Commissioner of Income-tax, Bombay City II v. M/s. Shri Goverdhan Ltd., Bombay	(Apr) 292
Bank of Bihar Ltd. v. Dr. Damodar Prasad	(Apr) 297	Commissioner of Income-tax, Central Calcutta v. Gold Mohore Investment Co., Ltd.	(Dec) 1183
Bengal Chemical and Pharmaceutical Works Ltd. v. Its Workmen	(May) 360	Commissioner of Income-tax, Gujarat II v. B. M. Kharwar	(Sep) 812
Beohar Rajendra Sinha v. State of Madhya Pradesh	(Dec) 1256	Commissioner of Income-tax, Kerala v. K. B. Kalikutty	(Oct) 869
Bharat Nidhi Ltd. v. Takhatmal	(Apr) 813	Commissioner of Income-tax, Kerala v. Manick Sons	(Dec) 1122
Bhooma Reddy, P. v. State of Mysore	(Aug) 655	Commissioner of Income-tax, Madras v. S. Chenniappa Mudaliar	(Nov) 1068
Bibhuti Bhusan Das Gupta v. State of West Bengal	(May) 331	Commr., I. T. Mysore v. D. C. Shah	(Oct) 927
Bibi Aisha v. Bihar Subai Sunni Majlis Avaqaf	(Mar) 253	Commissioner of Income-tax, U. P. v. Bharat Engineering and Construction Co.	(Apr) 138
Bidya Deb Barma v. District Magistrate, Tripura, Agartala	(Apr) 323	Commissioner of Income-tax, U. P. v. Gauri Dutt Bhagwandas and Co. : See (Mar) 209	
Boothalinga Agencies v. V. T. C. Poriswami Nadar	(Jan) 110	Commissioner of Income-tax, U. P. v. Jagannath Mahadeo Prasad	(Mar) 209
Brenda K. Monroe v. Board of Commissioners of the City of Jackson, Tenn.	(July) 45	Commissioner of Income-tax, U. P. v. Madan Gopal Radhey Lal	(Oct) 840
Galtex (India) Ltd. v. Bhagwan Devi Marodia	(May) 405	Commissioner of Income-tax, West Bengal I v. Allahabad Bank Ltd.	(Nov) 1053
Central Bank of India Ltd. v. Prakash Chand Jain	(Nov) 933	Commissioner of Income-tax, West Bengal III Calcutta v. Imperial Chemical Industries (India) Private Ltd.	(Dec) 1160
Chaggar, G. S. v. Union of India	(Jan) 118		
Chairman, M/s. Brooke Bond India Private Ltd. v. Chandra-nath Choudhary	(Nov) 992		
Charity Commissioner, Bombay v. Shringeri Math	(July) 566		

Commissioner of Sales Tax, Indore v. Mohammad Hussain Rahim Bux	(July) 549	Hari Chand Aggarwal v. Batala Engineering Co. Ltd.	(June) 483
Commissioner of Sales Tax, U. P. v. Dr. Sukh Deo	(June) 499	Hazara Singh v. State of U. P.	(Nov) 951
Commissioner of Wealth Tax, Madras v. R. A. Muthukrishna Ammal	(Sep) 740	Hindustan Steel Ltd. v. Dilip Construction Co.	(Dec) 1238
Cricket Club of India v. Bombay Labour Union	(Apr) 276	Hiralal Aggarwal v. Rampadarath Singh	(Mar) 244
Daffadar Bhagat Singh and Sons v. Income-tax Officer, A Ward, Forezepure	(May) 340	Hooghly Trust (Private) Ltd. v. The Commissioner of Income-tax, W. B. and Andaman & Nicobar Islands	(Nov) 946
Dalpat Singh v. State of Rajasthan	(Jan) 17	Hydro (Engineers) Pvt. Ltd. v. Workmen	(Mar) 182
Debabrata Bandopadhyay v. State of West Bengal	(Mar) 189	Income Tax Officer, Cannanore v. M. K. Mohammed Kunchi	(May) 430
Deccan Merchants Co-operative Bank Ltd. v. M/s. Dalichand Jugraj Jain	(Dec) 1320	Income Tax Officer District II Kanpur v. Mani Ram	(July) 543
Delhi Administration v. Chanan Shah	(Dec) 1108	Income-tax Officer, III Mangalore v. M. Damodar Bhat	(May) 408
Deo Singh v. State of Bihar : See (Jan) 53		Indian Oxygen Ltd. v. Workmen	(Apr) 306
Deputy Commissioner of Agricultural Income-tax and Sales Tax, Central Zone, Ernakulam v. Palampadam Plantations Ltd.	(Nov) 930	Indian Telephone Industries Ltd. v. Workmen	(July) 530
Dewaji v. Ganpatlal	(July) 560	Ishwarlal Girdharilal v. State of Maharashtra	(Jan) 40
Dhanki Mahajan v. Rana Chandubha Vakhatsing	(Jan) 69	J. K. Woollen Manufacturers v. Commissioner of Income Tax, U. P.	(Aug) 609
Dhulabhai v. State of Madhya Pradesh	(Jan) 78	Jagannath Rao. P. V. v. State of Orissa	(Mar) 215
Digvijaysinghji Hamirsinhji v. Manji Savda	(May) 370	Jai Jai Ram Manohar Lal v. National Building Material Supply, Gurgaon	(Dec) 1267
Durga Das Khanna v. Commissioner of Income-tax, Calcutta	(Sep) 775	Jai Lal v. Delhi Administration	(Jan) 15
Firm Ishardass Devi Chand v. R. B. Parkash Chand	(Nov) 938	Jaimal v. Financial Commissioner, Punjab	(May) 392
G. E. C. (P) Ltd., Naini v. Labour Court, Allahabad	(Mar) 235	Jai Narain v. Kishan Chand	(Dec) 1165
Ganapathi Thevar, L. R. (dead) v. v. Sri Navaneethaswaraswami Devasthanam	(Sep) 764	Jaipur Udyog Ltd. v. Commissioner of Income-tax, Delhi and Rajasthan	(June) 470
Ganesh Prasad Dixit v. Commissioner of Sales Tax, Madhya Pradesh	(Dec) 1276	Jang Bahadur Singh v. Baij Nath Tiwari	(Jan) 30
Gappulal v. Thakurji Shriji Dwarkadheeshji	(Dec) 1291	Jani, J. P. v. Induprasad Devshanker Bhatt	(Sep) 778
Giani Ram v. Ramji Lal	(Dec) 1144	Jashbhai Chunibhai Patel v. Anverbeg A. Mirza	(July) 586
Goyal, M. R. v. Commissioner of Income-tax, Bombay City I, Bombay	(Oct) 859	Jhansi Lakshmi Bai, S. v. Pothana Appa Rao	(Dec) 1355
Gujarat Electricity Board v. Giridharlal Motilal	(Apr) 267	Jindas Oil Mill v. Godhra Electricity Co. Ltd.	(Dec) 1225
Gujarat Electricity Board v. Shantilal R. Desai	(Mar) 239	Jogendra Nath Naskar v. Commissioner of Income-tax, Calcutta	(Nov) 1089
Gurushanthappa, D. R. v. Abdul Khuddus Anwar	(Sep) 744	Joshi, L. B. Dr. v. Dr. T. B. Godbole	(Jan) 128
Hadibandhu Das v. District Magistrate, Cuttack	(Jan) 43	Jotish Chandia v. State of Bihar	(Jan) 7
		Juggilal Kamapat v. Commissioner of Income-tax, U. P.	(Nov) 932
		Kalinga Tubes Ltd. v. Workmen	(Jan) 90
		Kalva Suryanarayana v. Income-tax Officer, A-3 Ward	(Apr) 285
		Kamraju Venkata Krishna Rao v. Sub-Collector, Ongole	(July) 563

Kanti Prasad Jayshanker v. Purshottamdas Ranchhoddas	(Oct) 851	Mansukhlal and Brothers v. Commissioner of Income-tax, Bombay City II, Bombay	(Oct) 835
Kapurchand Shrimal v. Tax Recovery Officer, Hyderabad	(Aug) 682	Manubhai Nandlal v. Popatlal Manilal	(Aug) 734
Karam Chand Thapar and Bros. Private Ltd. v. Commissioner of Income-tax (Central), Calcutta	(Dec) 1241	Metal Box Company of India Ltd. v. Their Workmen	(Aug) 612
Kartar Singh, S. v. Chaman Lal	(Dec) 1288	Modi Co. v. Union of India	(Jan) 9
Khaje Khanavar Khadarkhan Hussain Khan v. Siddavanahalli Nijalingappa	(Nov) 1034	Modi Spinning and Weaving Mills Co. Ltd. v. Income-tax Officer, Special Investigation Circle (B) (now as Central) Circle (II), Meerut	(Nov) 944
Konappa Rudrappa Nadgouda v. Vishwanath Reddy	(June) 447	Mohan Singh v. Pasupatinath Saran Singh	(Feb) 135
Koteswar Vittal v. K. Rangappa Baliga and Co.	(June) 504	Mohan Raj v. Surendra Kumar	(Aug) 677
Krishna Ballabh v. Commission of Inquiry	(Apr) 258	Mudaliar, V. Sanjeevaraya v. N.A. Raghavachari	(June) 435
Krishna Iyer, P. N. v. Commissioner of Income-tax, Kerala	(Oct) 893	Mudigowda Gowdappa Sankh v. Ramchandra Revgowda Sankh	(Nov) 1076
Krishna Rao v. State of Mysore : See (June) 453		Municipal Committee, Amritsar v. State of Punjab	(Nov) 1100
Kuchwar Lime and Stone Co. v. M/s. Dehri Rohtas Light Railway and Co. Ltd.	(Mar) 193	Municipal Corporation, Indore v. K. N. Palsikar	(July) 579
Lachhman Dass v. Municipal Committee, Jalalabad	(Dec) 1126	Municipal Corporation of Delhi v. Kishan Dass	(May) 386
Lajwanti v. Lal Chand	(Jan) 27	Musamia Imam Haider Bax Razvi v. Rabari Govindbhai Ratnabhai	(June) 439
Lakhi Prasad Agarwal v. Nathmal Dokania	(July) 583	Muthia Chettiar, P.C.K. v. V.E.S. Shanmugham Chettiar	(July) 552
Lakshmiratan Cotton Mills Co. Ltd., Kanpur v. Commissioner of Income-tax, U. P.	(Oct) 917	Nagappa, C. R. v. Commissioner of Income-tax, Mysore	(Oct) 888
Lala Praduman Kumar v. Virendra Goyal	(Dec) 1349	Narbada Prasad v. Chhaganlal National and Grindlays Bank Ltd. v. Municipal Corporation for Greater Bombay	(Nov) 1048
Laxmipat Singhania v. Commissioner of Income-tax, U. P.	(June) 501	New Savan Sugar and Gur Refining Co. Ltd. v. Commissioner of Income-tax, Calcutta	(Nov) 1062
Loon Karan Seth v. Ivan E. John	(Jan) 73	Netherlands Steam Navigation Co. Ltd. v. Commissioner of Income-tax, West Bengal	(Dec) 1262
Madhu Limaye, In the matter of	(Nov) 1014	Niranjallal Agarwalla v. Union of India	(Jan) 23
Maganbhai Ishwarbhai Patel v. Union of India	(Sep) 783	Nirshi Dhobin v. Dr. Sudhir Kumar Mukherjee	(Oct) 864
Maganlal Chhotabhai v. Chandrakant	(Jan) 37	Nishi Kant Jha v. State of Bihar	(May) 422
Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati	(Apr) 329	Obliswami Naidu, R. v. Addl. State Transport Appellate Tribunal, Madras	(Dec) 1130
Mahomed Meerakhan v. Commissioner of Income-tax, Kerala	(Nov) 1053	Official Trustee, West Bengal v. Sachindra Nath Chatterjee	(Oct) 823
Mahd. Usman v. Union of India	(June) 474	Oriental Investment Co. (P) Ltd. v. Commissioner of Income-tax, Bombay	(June) 460
Malini Ayyappa Naicker v. Seth Manghraj Udhavdas firm	(Dec) 1344	Orient Paper Mills Ltd. v. Union of India	(Jan) 43
Malojirao Narsingh Rao v. State of Madhya Pradesh	(Nov) 953	Padrauna Raj Krishna Sugar Works Ltd. v. Land Reforms Commissioner, U. P.	(Oct) 597
Management of Churakulam Tea Estate (P) Ltd. v. Workmen	(Nov) 993		
Manickchand, K. v. Elias Saleh Mohamed Sait	(Sep) 751		
Manick Chand, K. v. Elias Saleh Mohamed Sait	(Aug) 671		
Manikant Tiwari v. Union of India	(Sep) 783		
Mani Mani v. Mani Joshua	(Dec) 1311		

Paokai Haokip v. Rishang	(Aug) 663	Shakuntala Devi v. Kuntal Kumari	(July) 575
Parsram v. Shivchand	(July) 597	Sham Sunder v. Union of India	(Mar) 212
Patel Bhuder Mavji v. Jat Mamedaji Kalaji (Dead)	(Dec) 1196	Shankara Rao, B. Venkata Rao v. State of Mysore	(June) 453
Payment of Wages Inspector, Ujjain v. Barnagar Electric Supply and Industrial Co. Ltd.	(July) 590	Sheikh Abdul Rehman v. Jagat Ram Aryan	(Dec) 1111
Piara Singh v. State of Punjab	(Nov) 961	Sheodan Singh v. Mohan Lal Gautam	(Nov) 1024
Pierce Leslie and Co. Ltd. v. Violet Ouchterlong Wapshare	(Oct) 843	Shivashankar Prasad Shah v. Baikunth Nath Singh	(Nov) 971
Prabhakar V. Sinari v. Shanker Anant Verlekar	(Aug) 686	Shri Vidya Prachar Trust v. Basant Ram Duli Chand	(Dec) 1273
Praga Tools Corporation v. C. V. Imanuel	(Dec) 1306	Sihor Electricity Works Ltd. v. Gujarat Electricity Board	(Sep) 770
Ragho Prasad v. Krishna Poddar	(Apr) 316	Soli Pestonji Majoo v. Ganga Dhar Khemka	(July) 600
Raghunath v. Kedarnath	(Dec) 1316	Somalal Nathji Shiroiya v. Godhra Electricity Co. Ltd.: See (Dec) 1225	
Raghunath Das v. Union of India	(Aug) 674	Som Datt Datta v. Union of India	(May) 414
Railway Board, New Delhi v. Niranjana Singh	(Nov) 966	Standard Motor Union Private Ltd. v. State of Kerala	(Apr) 273
Rajagopal, S. v. C. M. Armugam	(Jan) 101	State Bank of India v. Ghamandi Ram	(Dec) 1330
Raj Kumar v. Union of India	(Mar) 180	— v. Rajendra Kumar Singh	(May) 401
Rajputana Trading Co., Ltd. v. Commissioner of Income-tax, West Bengal	(July) 572	State of Assam v. Deva Prasad Barua	(Oct) 831
Ramanlal Gulabchand Shah v. State of Gujarat	(Feb) 168	State of Bihar v. Kapil Singh	(Jan) 53
Ram Kristo Mandal v. Dhankisto Mandal	(Mar) 204	— v. Maharaja Pratap Singh Bahadur	(Feb) 164
Ramrao v. Narayan	(Aug) 724	State of Gujarat v. Acharya Shri Devendraprasadji Pande	(May) 373
Ramu Gope v. State of Bihar	(Aug) 689	— v. Jetawat Lalsingh Amarsing	(Apr) 270
Ramujagar Singh v. State of Bihar: See (Jan) 53		— v. Patel Raghav Natha	(Dec) 1297
Rani Bai, Smt. v. Yadunandan Ram	(Dec) 1118	— v. R. G. Teredesai	(Dec) 1294
Ranjit Chandra Chowdhury (dead) v. Mohitosh Mukherjee (dead)	(Dec) 1187	— v. Shantilal Mangaldas	(Aug) 634
Ranjit Singh, Major v. Union of India: See (Sep) 783		State of Kerala v. Haji K. Kutty Naha	(May) 378
Rasbihari Panda v. State of Orissa	(Nov) 1081	— v. Hydrose Ali, etc.: See (May) 378	
Rohtas Industries Ltd. v. S. D. Agarwal	(Aug) 707	— v. Malankara Rubber and Produce Company Ltd.: See (May) 378	
Sahu Rajeshwar Nath v. Income-tax Officer, C-Ward, Meerut	(Aug) 667	State of Madhya Pradesh v. Maharaniahu: See (Dec) 1256	
Samant N. Balakrishna v. George Fernandez	(Dec) 1201	State of Madras v. M/s. K. C. P. Ltd.	(May) 348
Sampat Prakhsh v. State of Jammu and Kashmir	(Dec) 1153	— v. N. K. Nataraja Mudaliar	(Feb) 147
Sampat Singh v. State of Rajasthan	(Nov) 956	State of Maharashtra v. Bhaisankar Avalram Joshi	(Dec) 1302
Sanghvi Jeevraj Ghewar Chand v. Madras Chillies, Grains and Kirana Merchants Workers Union	(July) 530	State of Mysore v. D. Achiah Chetty	(June) 477
Seshadri, R. M. v. G. Vasanthai Pai	(Aug) 692	State of Orissa v. Binode Kishore Mohapatra	(Dec) 1249
Shahdara (Delhi) Saharanpur Light Railway Co. Ltd. v. S. S. Railway Workers Union	(July) 513	State of Punjab v. Bhai Ardaman Singh	(Jan) 13
Shaik Abdul Karim v. State of West Bengal	(Nov) 1028	— v. Brij Lal Palta	(May) 355
		— v. Chandu Lal Kishori Lal	(Nov) 1073

State of Punjab v. Dr. Baldev Parkash: See (Oct) 903		Union of India v. Brilla Purshotamdas	(Oct) 817
—v. Krishna Cotton, Dal and Oil Factory, Mansa: See (Nov) 1073		—v. M/s. Khas Karanpura Colliery Co. Ltd.	(Jan) 125
—v. Satya Pal Dang	(Oct) 903	—v. M/s. Motilal Padampat Sugar Mills Co. (Private) Ltd., Kanpur	(Aug) 630
State of Rajasthan v. M/s. Karam Chand Thappar and Brothers (Coal Sales) Ltd., Jaipur	(May) 343	—v. Pratap Singh: See (Jan) 33	
—v. Man Industrial Corporation Ltd. Jaipur	(Dec) 1245	—v. Radha Kisen Agarwalla	(Sep) 762
—v. Mewar Sugar Mills Ltd.	(Oct) 880	—v. Salween Timber and Construction Co. (India)	(June) 488
State of Uttar Pradesh v. Harish Chandra Singh	(Nov) 1020	Yadera, B. S. v. Union of India	(Jan) 118
—v. Shah Mohammad	(Dec) 1234	Vallabbhai Nathabhai v. Bai Jivi	(Dec) 1190
State of West Bengal v. Jugal Kishore More	(Dec) 1171	Venkateswara Rao, K. v. Bekkam Narasimha Reddy	(Oct) 872
Sud, H. L. v. Tata Engineering and Locomotive Co. Ltd.	(Apr) 319	V. Venugopala Ravi Varma Rajah v. Union of India	(Nov) 1094
Sudhir Chandra v. Wealth-tax Officer, Calcutta	(Jan) 59	Vidya Sagar Joshi v. Surrinder Nath Gautam	(Apr) 288
Sugra Bibi v. Hazi Kummumia	(Oct) 834	Voilet Ouchterlony Wapshare v. Pierce Leslie and Co. Ltd.: See (Oct) 843	
Sukhram Singh v. Smt. Harbheji	(Dec) 1114	Vishwanatha Pillai, K. M. v. Shanmugham Pillai	(June) 493
Suresh Koshy George v. University of Kerala	(Mar) 198	Vishwanatha Reddy v. Konappa Rudrappa Nadgouda	(July) 604
Surti, D. M., Dr. v. State of Gujarat	(Jan) 63	Visweswardas Gokuldas v. B. K. Narayan Singh	(Dec) 1157
Sushanta Goswami v. State of West Bengal	(Nov) 1004	Voleti Venkata Ramarao v. Kesaparagada Bhaskarrao	(Dec) 1359
Swaran Lata Ghosh, Smt. v. Harendra Kumar Banarjee	(Dec) 1167	W. Proost v. State of Bihar	(June) 465
Town Municipal Council, Athani v. Presiding Officer, Labour Court, Hubli	(Dec) 1335	Workmen of Orient Paper Mills Ltd. v. Orient Paper Mills Ltd.	(Nov) 976
Triloki Nath v. State of Jammu and Kashmir	(Jan) 1	Workmen of the Motor Industries Co. Ltd. v. Motor Industries Co. Ltd.	(Dec) 1280
Umrao Singh, S. v. Darbara Singh	(Apr) 262		

SUBJECT INDEX

Ajmer-Merwara Municipalities Regulation (6 of 1925)

See under Municipalities.

Andhra Inams (Abolition and Conversion into Ryotwari) Act (37 of 1956)

See under Tenancy Laws.

Arbitration Act (10 of 1940), Ss. 2 (a) and (b) and 21—Agreement to refer disputes in pending suits to arbitration of sole judge extra cursum curiae—Under terms of agreement Judge to act in dual capacity as arbitrator and a Judge—Order passed in pursuance of agreement in partition suit—On facts order held to be judgment and preliminary decree and not award—Registrar of

Arbitration Act (contd.)

High Court bound to file it on record under Rules of High Court—No mandamus can be issued against Registrar to take it off the record so long as the order is not vacated by appropriate remedy (Dec) 1133

—Ss. 8 and 20—Application under—There is no prescribed period of limitation—Art. 181, Limitation Act does not apply. AIR 1965 All 269, Reversed (June) 474

—S. 20—Application under—There is no prescribed period of limitation—Art. 181, Limitation Act does not apply. AIR 1965 All 269, Reversed. See Arbitration Act (1940), S. 5 (June) 474

Arbitration Act (contd.)

—S. 21 — Agreement to refer disputes in pending suits to arbitration of sole judge extra cursum curiae—Under terms of agreement judge to act in dual capacity as arbitrator and a judge — Order passed in pursuance of agreement in partition suit — On facts order held to be judgment and preliminary decree and not award — See Arbitration Act (1940), S. 2 (a) and (b): (Dec) 1133

—S. 33—Arbitration agreement— Dispute between parties—Recourse to terms of agreement necessary for deciding dispute— Arbitrator has jurisdiction to decide such dispute (June) 488

—S. 47 — Registrar's nominee appointed under S. 95 of Maharashtra Co-operative Societies Act — His position is that of arbitrator to whom provisions of S. 47 apply — See Co-operative Societies — Maharashtra Co-operative Societies Act (24 of 1961), S. 95 (Aug) 724A

Army Act (46 of 1950), Ss. 125, 126—Offences under Army Act — Jurisdiction for trial — Offence triable by court martial and ordinary criminal Courts — Order by authority under S. 125 for trial by Court martial — Not illegal merely because police officer had started investigation (May) 414A

—S. 125—Rules under (S. R. O. 709 dated 17-4-1952) — Rr. 3, 5—Applicability—Rules not attracted merely because police had started investigation in an offence under Army Act—See Criminal P. C. (1898), S. 549 (May) 414B

—S. 126 — Offences under Army Act — Jurisdiction for trial — Offences triable by Court martial and ordinary Criminal Courts — Order by authority under S. 125 for trial by Court martial — Not illegal merely because police officer had started investigation—See Army Act (1950), S. 125 (May) 414A

—Ss. 164, 165—Orders confirming proceedings of Court Martial — No obligation to give reasons — Orders not illegal for not giving any reasons (May) 414D

—S. 165 — Orders confirming proceedings of Court Martial — No obligation to give reasons—See Army Act (1950), S. 164 (May) 414D

Army Rules (1954), R. 50 (2)— Applicability — Rule applies only to an alteration of charge before examination of witnesses (May) 414C

Assam Agricultural Income-tax Act (9 of 1939), Ss. 19, 20 and 30 — General notice for submission of return under S. 19 (1) — Voluntary return in pursuance of it filed by assessee after expiry of period of notice — Return is valid and has to be considered — Words "at any time"—Interpretation. Civil

Assam Agricultural Income-tax Act (contd.) Rules Nos. 212 and 213 of 1962, D/- 23-4-1963 (Assam), **Reversed** (Oct) 831A

—S. 19 — S. 19 is *pari materia* with S. 22 of Income-tax Act (1922) (Oct) 831B

—S. 20—General notice for submission of return under S. 19 (1) — Voluntary return in pursuance of it filed by assessee after expiry of period of notice — Return is valid and has to be considered — See Assam Agricultural Income-tax Act (9 of 1939), S. 19 (Oct) 831A

—S. 30—General notice for submission of return under S. 19 (1) — Voluntary return in pursuance of it filed by assessee after expiry of period of notice—Return is valid and has to be considered — See Assam Agricultural Income-tax Act (9 of 1939), S. 19:(Oct) 831A

Bangalore Acquisition of Lands (Validation) Act (Mys. Act 19 of 1963), Ss. 1 and 2— Scope and effect of Validating Act — Words 'or on any other ground whatsoever' — Interpretation of — Words do not preclude objection on ground of breach of fundamental rights (June) 477A

—S. 1 — Power of State Legislature to validate retrospectively acquisitions of land offending Art. 14—Constitutionality—Legislature had power to 'validate past acquisitions by getting over discriminations caused by two existing procedures. AIR 1962 Mys 218, **Reversed** on basis of 'subsequent event — See Constitution of India, Art. 14 (June) 477B

—S. 2—Scope and effect of Validating Act — Words 'or on any other ground whatsoever' — Interpretation of — Words do not preclude objection on ground of breach of fundamental rights—See Bangalore Acquisition of Lands (Validation) Act (Mys. Act 19 of 1963), S. 1 (June) 477A

Berar Regulation of Agricultural Lease Act (24 of 1951)

See under Tenancy Laws.

Bihar Land Reforms Act (30 of 1950)

See under Tenancy Laws.

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962)

See under Tenancy Laws.

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules (1963)

See under Tenancy Laws.

Bihar Shops and Establishments Act (8 of 1954)

See under Shops and Establishments.

Bihar Shops and Establishments Rules, 1955

See under Shops and Establishments.

Bihar Tenancy Act (8 of 1885)

See under Tenancy Laws.

Bombay Electricity (Surcharge) Act (19 of 1946) (as extended to Ajmer Merwar under Ajmer-Merwar Extension of Laws Act (1947), Ss. 3, 4, 6 — Relative scope — Intention of Legislature to be gathered from language of statutory provision — S. 6 does not in any manner control Ss. 3 and 4 — Levy of surcharge on price of electrical energy supplied for street lighting—Notification issued by Chief Commissioner is not without authority of law — F. A. No. 67 of 1956, D/- 22-9-1964 (Raj),

Reversed

(Mar) 227B
—S. 3—No conflict in Cl. 12 of Schedule in Electricity Act (1910) and Ss. 3 and 4 of Bombay Electricity (Surcharge) Act (19 of 1946) (as extended to Ajmer, Merwara by Ajmer-Merwara Extension of Laws Act 1947) — Notification issued by Chief Commissioner of Ajmer levying surcharge is not ultra vires the provisions of Electricity Act F. A. No. 67 of 1956, D/- 22-9-1964 (Raj),
Reversed — See Electricity Act (1910), S. 3 (f) (Mar) 227C

—S. 3 (2)—Suit against Municipal Committee claiming amount as surcharge due under Notification issued under S. 3 (2) of Bombay Electricity (Surcharge) Act—Notice under S. 233 of Regulation is not necessary — F. A. No. 67 of 1956, D/- 22-9-1964 (Raj),
Reversed—See Municipalities — Ajmer Merwar Municipalities Regulation (1925), S. 233 (Mar) 227A

—S. 4—S. 6 does not in any manner control Ss. 3 and 4—F. N. No. 67 of 1956, D/- 22-9-1964 (Raj), **Reversed**—See Bombay Electricity (Surcharge) Act (19 of 1946), S. 3 (Mar) 227B

—S. 4—Competency of Legislature to provide for surcharge — No conflict in Cl. 12 of Schedule in Electricity Act (1910) and Ss. 3 and 4 of Bombay Electricity (Surcharge) Act (19 of 1946) (as extended to Ajmer Merwara by Ajmer Merwara Extension of Laws Act, 1947)—Notification issued by Chief Commissioner of Ajmer levying surcharge is not ultra vires the provisions of Electricity Act — F. A. No. 67 of 1956, D/- 22-9-1964 (Raj), **Reversed** — See Electricity Act (1910), S. 3 (f) (Mar) 227C

—S. 6—S. 6 does not in any manner control Ss. 3 and 4. F. A. No. 67 of 1956, D/- 22-9-1964 (Raj), **Reversed**—See Bombay Electricity (Surcharge) Act (19 of 1945), S. 3 (Mar) 227B

Bombay Land Revenue Code (5 of 1879), Ss. 65 and 211 — Power of Commissioner to revise order made under S. 65—Limitation—Power must be exercised within a few months — Commissioner must give reasons for his conclusions — Commissioner not empowered to decide in these proceedings, question of title against occupant (Dec) 1297

Bombay Land Revenue Code (contd.)

—S. 211—Power of Commissioner to revise order made under S. 65—Limitation—Power must be exercised within a few months — Commissioner must give reasons for his conclusions — See Bombay Land Revenue Code (5 of 1879), S. 65 (Dec) 1297

Bombay Merged Territories and Areas (Jagir Abolition) Act (39 of 1954)
See under Tenancy Laws.

Bombay Motor Vehicles Rules (1940), R. 67—Orders of R. T. A. in form of resolution at meeting at which parties were present — Resolution communicated to parties — Reasons for order given in the communication — The procedure did not contravene any provision of law or rule — There is no provision either in the Act or the Rules which requires the R. T. A. to give a written decision with regard to the grant of a stage-carriage permit. Nor is there anything in the Act or the Rules which by necessary implication throws a duty upon the R. T. A. to give a written judgment in each case and to give reasons thereof along with the written decision — See Motor Vehicles Act (1939), S. 57 (Apr) 329F

—R. 68—Orders of R. T. A. in form of resolution at meeting at which parties were present—Resolution communicated to parties — Reasons for order given in the communication — The procedure did not contravene any provision of law or rule — There is no provision either in the Act or the Rules which requires the R. T. A. to give a written decision with regard to the grant of a stage-carriage permit. Nor is there anything in the Act or the Rules which by necessary implication throws a duty upon the R. T. A. to give a written judgment in each case and to give reasons thereof along with the written decision — See Motor Vehicles Act (1939), S. 57 (Apr) 329F

—R. 80—Substantive permit not mentioning period for which it was granted, is not invalid—See Motor Vehicles Act (1939), S. 46 (Apr) 329A

Bombay Municipal Corporation Act (3 of 1886)

See under Municipalities.

Bombay Public Trusts Act (29 of 1950), Ss. 2 (9), 2 (17), 18 — Situs of trust — How determined — Shankaracharya Math in Nasik — Property of Shringeri Math — Not a math or temple within the Act — Not liable to be registered (July) 566

—S. 18—Situs of trust — How determined — Shankaracharya Math in Nasik—Property of Shringeri Math — Not a math or temple within the Act — Not liable to be registered — See Bombay Public Trusts Act (29 of 1950), Ss. 2 (9), 2 (17) (July) 566

Bombay Public Trusts Act (contd.)

—Ss. 37 (1) (c), 67 (as applied to the State of Gujarat) — Words 'report' and 'statement' — Do not include information directed to be supplied in respect of certain specified items — Failure to supply is not punishable under S. 67 (May) 373

—S. 67 (as applied to the State of Gujarat) — Words 'report' and 'statement' — Do not include information directed to be supplied in respect of certain specified items — Failure to supply it not punishable under S. 67— See Bombay Public Trnsts Act (29 of 1950) (as applied to the State of Gujarat). S. 37 (1) (c) (May) 373

Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947)
See under Houses and Rents.

Bombay Reorganisation Act (11 of 1960), Ss. 60 and 61 — Some element of relationship between public servant and Government is based on contract within S. 60 — Decree for arrears of salary more properly falls under S. 60 (Dec) 1302B

—S. 61 — Expression "actionable wrong other than breach of contract"—Salary payable to Government servant does not come within expression—See Bombay Reorganisation Act (1960), S. 60 (Dec) 1302B

Bombay Shops and Establishments Act (79 of 1948)

See under Shops and Establishments.

Bombay Tenancy and Agricultural Act (67 of 1948)

See under Tenancy Laws.

Bombay Town Planning Act (27 of 1955), S. 53 — Provisions do not infringe Art. 31 (2) of Constitution and do not fall within exception in Art. 31 (5) (b) (ii)—Spl. Civil Appn. No. 837 of 1960, D/- 24-1-1968 (Guj), **Reversed**—See Constitution of India, Art. 31 (2) and (5) (b) (ii) (Aug) 634B

—S. 53—Do not infringe Art. 14 — See Constitution of India, Art. 14 (Aug) 634C

—S. 53—Scope— Section merely provides for readjustment of titles by local authority in reconstituted plots and not for their vesting in local authority (Aug) 634H

—S. 67 — Provisions do not infringe Art. 31 (2) of Constitution and do not fall within exception in Art. 31 (5) (b) (ii) — Spl. Civil Appn. No. 837 of 1960 D/- 24-1-1968 (Guj) **Reversed**—See Constitution of India, Article 31 (2) and (5) (b) (ii) (Aug) 634B

—S. 67—Do not infringe Art. 14 — See Constitution of India, Art. 14 (Aug) 634C

—S. 67 — Fixation of compensation according to scheme of S. 67 cannot be challenged as being unreasonable — See Constitution of India, Art. 19 (1) (f) and (5) (Aug) 634F

Bombay Town Planning Act (contd.)

—S. 67 — S. 67 lays down principles for determining amount of compensation — See Constitution of India, Art. 31 (2): (Aug) 634I

—S. 71 — Fixation of compensation according to scheme of S. 67 cannot be challenged as being unreasonable—See Constitution of India, Art. 19 (1) (f) and (5) (Aug) 634F

—S. 71 — S. 71 lays down principles for determining amount of compensation—See Constitution of India, Art. 31(2) (Aug) 634I

—Ss. 81 and 84—Scope and object (Aug) 634G

—S. 84 — Scope and object—See Bombay Town Planning Act (27 of 1955), S. 81 (Aug) 634G

Calcutta High Court Rules (Original Side)

See under High Court Rules and Orders.

Central Excises and Salt Act (1 of 1944), S. 35 and First Sch. Item 17 (3) and (4) — Collector while hearing appeal acts quasi judicially— Directions issued by Central Board of Revenue which are not under Rule 238, cannot be binding on him for purposes of deciding the appeal — Determination whether 'M. G. Poster paper' was 'packing and wrapping paper' chargeable under item 17 (4) or "printing paper" chargeable under item 17 (3) of first Schedule—Direction of Board, held, could not be binding on the Collector (Jan) 48

—First Sch. Item 17 (3) and (4) — Determination whether 'M. G. Poster paper' was 'packing and wrapping paper' chargeable under item 17 (4) or "printing paper" chargeable under item 17 (3) of first Schedule — Direction of Board, held; could not be binding on the Collector, while deciding appeal —See Central Excises and Salt Act (1944), S. 35 (Jan) 48

Central Provinces Settlement Instructions (Reprint of 1953)

See under Tenancy Laws.

Central Sales Tax Act (74 of 1956)

See under Sales Tax.

Central Trade Union Regulations (1938), Reg. 9 — Rules of Trade Union—Amendment—Procedure—Amendment when comes into effect — Notification by Registrar of his having registered amendment is necessary — Reg. No. 32 of 1963 D/- 28-9-1964 (Ind. Tri. Bihar) **Reversed**—See Industrial Disputes Act (1947), S. 10 (2) (Apr) 306A

Citizenship Act (57 of 1955) S. 9—Retrospective operation — Pending suit involving questions falling within sub-section (2) — Civil Court's jurisdiction is ousted by section read with Rule 30, Citizenship Rules, 1956 — A I R 1963 All 260, **Overruled**; S. A.

Citizenship Act (contd.)

No. 3809 of 1958, D/- 11-12-1963 (All), **Reversed** (Dec) 1234A

Citizenship Rules (1956), R. 30—Citizenship Act (1955), S. 9—Retrospective operation—Pending suit involving questions falling within sub-s. (2)—Civil Court's jurisdiction is ousted by section read with R. 30, Citizenship Rules, 1956—A I R 1963 All 260, **Overruled**; S. A. No. 3809 of 1958, D/- 11-12-63 (All), **Reversed**—*See* Citizenship Act (1955), S. 9 (Dec) 1234A

Civil Procedure Code (5 of 1908), Pre.—Interpretation of Statutes—Meaning of words—*See* Public Safety—Preventive Detention Act (1950), S. 13 (2) (Jan) 43B

—*Pre.*—Precedents—A single Judge of a High Court is ordinarily bound to accept as correct judgments of Courts of co-ordinate jurisdiction or Division Benches and Full Benches of his Court—Civ. Rev. Appln. No. 477 of 1960, D/- 12-2-1963 (Guj), **Reversed** (Jan) 69B

—*Pre.*—Interpretation of statute—Proviso—Language clear and unambiguous—It is futile to go into question whether proviso operates as substantive provision or by way of an exception—*See* Income-tax Act (1922), S. 24 (1) First Proviso Expln. (1) (Mar) 209

—*Pre.*—Interpretation of Statutes—Intention of Legislature—To be gathered from language of statutory provision—*See* Bombay Electricity (Surcharge) Act (19 of 1946), S. 3 (Mar) 227B

—*Pre.*—Interpretation of Statutes—Effect of repeal—*See* General Clauses Act (1897), S. 6 (Mar) 239C

—*Pre.*—Interpretation of Statutes—Statute whether directory or mandatory—Matters to be considered (Mar) 244D

—*Pre.*—Interpretation of Statutes—Expropriation—Statute empowering certain authority to interfere with proprietary rights—Statute must be construed strictly—*See* Electricity Act (1910, as amended in 1959), S. 6 (1) (a) (Apr) 267

—*Pre.*—Interpretation of Statutes—Statute requiring particular thing to be done 'forthwith'—It should be understood as allowing reasonable time for doing it—*See* Public Safety—Preventive Detention Act (1950), S. 3 (3) (Apr) 323A

—*Pre.*—Interpretation of Statutes—Law requiring particular thing to be done in certain manner—It must be done in that manner or not at all—Other modes of compliance are excluded—*See* Representation of the People Act (1951), S. 33 (5) (May) 395A

—*Pre.*—Interpretation of Statutes—One provision in statute to be so interpreted as not to nullify effect of another provision—

Civil P. C. (contd.)

See Income Tax Act (1961), S. 156

(May) 408A

—*Pre.*—Interpretation of Statutes—Statute conferring power—Income Tax Act (1961), S. 254—Scope—Appellate Tribunal has power to grant stay as incidental or ancillary to its appellate jurisdiction—It can exercise the power in most deserving and appropriate cases—*See* Income Tax Act (1961), S. 254 (May) 430

—*Pre.*—Interpretation of Statutes—Jurisdiction of civil court—Exclusion of—Not to be readily inferred—Statute ousting jurisdiction of civil Court must do so in express terms or by use of such terms as would necessarily lead to such inference—*See* Civil P. C. (1908), S. 9 (June) 439C

—*Pre.*—Interpretation of Statutes—Interpretation of legislative lists—*See* Constitution of India, Pre. (June) 453B

—*Pre.*—Interpretation of Statutes—Rules of construction—Addition of words in section is not justified (June) 493C

—*Pre.*—Interpretation of Statutes—Taxing Statutes—*See* Sales Tax—U. P. Sales Tax Act (1948), S. 3A (June) 499

—*Pre.*—Interpretation of Statutes—Operation of Acts—Rules—Substitution of—Effect (June) 504C

—*Pre.*—Interpretation of Statutes—Language to be given natural and literal meaning unless there is ambiguity or anomaly (July) 513A

—*Pre.*—Interpretation of statutes—Reference to background of the Act—Permissible for ascertaining remedy and not for construing provisions of the Act—*See* Payment of Bonus Act (21 of 1965), Pre. (July) 530A

—*Pre.*—Interpretation of Statutes—Meaning of words—Subsequent Act does not afford any guidance for meaning of earlier Act unless both are laws on the same subject and earlier Act is ambiguous (July) 543B

—*Pre.*—Interpretation of Statutes—Operation of Acts—Effect of incorporation of relevant sections of T. P. Act in O. 34—English practice of treating suit as one for benefit of puisne mortgagee stopped after amendment of Civil P. C.—*See* Transfer of Property Act (1882), S. 67 (July) 600A

—*Pre.*—Interpretation of Statutes—Special and general provision—Special provisions for interest in O. 34 prevail over general provisions contained in S. 34, Civil P. C. Appeal No. 82/1959, D/- 17-1-1962 (Cal), **Reversed**—*See* Civil P. C. (1908), S. 34 (July) 600B

—*Pre.*—Interpretation of Statutes—Power given under a statute to do a certain thing

Civil P. C. (contd.)

in certain way—Thing must be done in that way or not at all (Aug) 634D

—*Pre.*—Interpretation of Statutes—Representation of the People Act (1951), S. 100 (1) (d) (iv) — Burden to prove that election was materially affected — Burden placed on election petitioner even though very strict, Courts should apply it — It is for Legislature and not for Courts to consider whether it is to be altered (Aug) 663B

—*Pre.*—Interpretation of Statutes—Repeal of statute by implication—Rule of construction—Duty of Court (Aug) 701A

—*Pre.*—Interpretation of Statutes—Meaning of words and expression in one statute — Interpretation by reference to construction on other similar statutes is impermissible — *See* Companies Act (1956), S. 237 (b) (Aug) 707B

—*Pre.*—Interpretation of Statutes — S. 19 of Assam Agricultural Income-tax Act (9 of 1939) is *pari materia* with S. 22 of Income-tax Act (1922) — *See* Assam Agricultural Income-tax Act (9 of 1939), S. 19 (Oct) 831A

—*Pre.*—Precedents—Law in *pari materia* — Decision of Supreme Court is binding—*See* Assam Agricultural Income-tax Act (9 of 1939), S. 19 (Oct) 831A

—*Pre.*—Interpretation of Statutes — Rule of stare decisis—Precedents—Bihar Tenancy Act (8 of 1885), S. 1 — Transfer of Property Act (1882), S. 117—Main lease consisting of agricultural land as well as homestead—Sub-lease of homestead only—Uniform decisions of High Courts of Calcutta and Patna during a period of nearly 55 years that in such cases all sub-leases are agricultural leases—Question held should not be reopened even though the correctness of the view is open to question—Rule that where terms of a Statute or Ordinance are clear then even a long and uniform course of judicial interpretation of it may be overruled, if it is contrary to clear meaning of enactment is inapplicable to decisions on the basis of which titles and transactions must have been founded: A I R 1961 Pat 321 (FB), **Reversed.** (Oct) 864

—*Pre.*—Interpretation of Statutes—Rajasthan Sales Tax Act (29 of 1954)—Act receiving assent of President on 22-12-1954 but coming into force on 1-4-55 — Rules framed under S. 26 of Act published on 28-3-55—Rules held legally from 1-4-55 by reason of S. 22, General Clauses Act read with S. 29, Sales Tax Act—Civil Writ Petn. No. 401 of 1963, D/- 3-4-1965 (Raj), **Reversed**—*See* Sales Tax — Rajasthan Sales Tax Act (29 of 1954), S. 26 (Oct) 880A

—*Pre.*—Interpretation of Statutes—Statute to be so read as to make it valid (Oct) 880B

Civil P. C. (contd.)

—*Pre.*—Interpretation of Statutes—Directory and mandatory provisions — Tests — Art. 199 (4) of the Constitution held to be directory—*See* Constitution of India, Art. 199 (4) (Oct) 903I

—*Pre.* — Interpretation of Statutes — Principle of “*optima legum interpres est consuetudo*” (Nov) 1048B

—*Pre.*—Maxims — “*Optima legum interpres est consuetudo*” — Custom is the best interpreter of the law — *See* Civil P. C. (1908), *Pre.* (Nov) 1048B

—*Pre.* — Interpretation of Statutes — Interpretation of words used by Parliament — Court will not supply gaps — *See* Income-tax Act (1922), S. 10 (2) (Nov) 1062B

—*Pre.* — Interpretation of Statutes — Meaning of words — Word “individual” in S. 3 of Income-tax Act (1922) cannot be given restricted meaning — *See* Income-tax Act (1922), S. 3 (Nov) 1089

—*Pre.*—Interpretation of Statutes—Taxing statute — Constitutional validity—*See* Constitution of India, Art. 14 (Nov) 1094A

—*Pre.* — Validity of Statute—Not invalid on ground of vagueness or on ground that it violates due process of law — *See* Constitution of India, Art. 13 (Nov) 1100A

—*Pre.* — Interpretation of Statutes — Retrospective operation — Section 157 of U. P. Act (1 of 1951) held to be retrospective — *See* Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (1950) (1 of 1951), S. 157 (Dec) 1114A

—*Pre.*—Interpretation of Statutes—Statute to be interpreted in furtherance of policy for which it was enacted — This rule applies only where the language of the Statute is not clear (Dec) 1165B

—*Pre.* — Precedents — Supreme Court cannot overlook the rulings of Supreme Court and follow the English rulings (Dec) 1201G

—*Pre.* — Interpretation of Statutes — Repeal of Act and its replacement by new Act — Vested rights under repealed Act continue — *See* Electricity (Supply) Act (1948), S. 57 (Dec) 1225

—S. 9 — Exclusion of jurisdiction of civil Court — Held on facts and circumstances of case that suit in question for declaration that provisions of law relating to assessment were *ultra vires* and for refund of tax illegally collected was not barred by S. 17 of M. B. Sales Tax Act (30 of 1950): First Appeals Nos 68, 69, 71 and 70 of 1961, respectively D/- 5-1-1965 (M.P.), **Reversed** (Jan) 78

—S. 9 — Effect of S. 11 — Question as to invalidity of exchange neither raised nor decided by Settlement Officer or Court — Bar of suit under S. 11 of Sonthal Parganas Settlement Regulation (3 of 1872), cannot

Civil P. C. (contd.)

apply — *See* Sonthal Parganas Settlement Regulation (3 of 1872), S. 11 (Mar) 204F

— *S. 9* — Claim of tenant to statutory ownership of land under Bombay Tenancy and Agricultural Lands Act — Question whether defendant is a tenant on date of suit — Duty of Malatdar to decide — Question whether defendant was a tenant in the past raised as a subsidiary plea in support of main plea of statutory ownership — Jurisdiction of Civil Court not barred: Appeal No. 1009 of 1960, D/- 5-2-1963 (Guj), **Reversed** — *See* Tenancy Laws—Bombay Tenancy and Agricultural Lands Act (57 of 1948), S. 70 (June) 439B

— *S. 9 and Pre.* — Jurisdiction of Civil Court — Exclusion of — Not to be readily inferred — Statute ousting jurisdiction of Civil Court must do so in express terms or by use of such terms as would necessarily lead to such inference (June) 439C

— *S. 9* — Exclusion of jurisdiction of civil Court must be explicitly expressed or necessarily implied — *See* Tenancy Laws—Berar Regulation of Agricultural Leases Act (24 of 1951), S. 16 (July) 560A

— *S. 9* — Boundary dispute between two independent States — Treaty and arbitration award of International Tribunal — Implementation of — Powers of Executive and Parliament — Extent of — Jurisdiction of municipal Courts—*See* Constitution of India, Art. 1 (3) (Sep) 783C

— *S. 9* — Powers of Court — Clause in trust-deed empowering settlor to alter quantum of interest given to each beneficiary 'by will alone' — Order by Court permitting settlor to revoke that clause and to permit said alteration being done by deed *inter vivos* — Validity of order — Court is not competent to pass such order and hence order is void — *See* Trusts Act (1882), S. 34 (Oct) 823A

— *S. 11* — Effect of *S. 11* — Question as to invalidity of exchange neither raised nor decided by Settlement Officer or Court — Bar of suit under *S. 11*, Sonthal Parganas Settlement Regulation (3 of 1872), cannot apply — *See* Sonthal Parganas Settlement Regulation (3 of 1872), S. 11 (Mar) 204F

— *Ss. 11, 47, O. 22, R. 3, O. 1, R. 10, O. 21, R. 35* — Parties and representatives—Benamidar can represent real owner — Proceedings between benamidar and third party—Death of benamidar—His heirs brought on record — Application by real owner for being brought on record dismissed — Decree against heirs of benamidar — Held on fact that benamidar and his heirs represented real owner and decree was binding on the real owner—Expression of opinion on ques-

Civil P. C. (contd.)

tion not in issue does not operate as res judicata (Apr) 316A

— *S. 11* — Principle of res judicata — Applicability to industrial matters — Proceedings for modification of Standing Orders under Industrial Employment (Standing Orders) Act — It is doubtful whether principles analogous to res judicata can properly be applied to such proceedings (July) 513E

— *S. 11*—Arrest and detention of manager for tax due by Hindu undivided family — Two petitions by Manager under Art. 226 — High Court taking somewhat technical view in declining to allow contention of Manager that he was not so liable and about res judicata — Supreme Court in appeal by special leave, interfered — *See* Constitution of India, Art. 136 (Aug) 632B

— *S. 11* — Suit for accounts — Objection as to maintainability of on ground of earlier proceedings under *S. 83*, T. P. Act rejected by trial Court — High Court confirming preliminary decree passed by trial Court — Application for grant of certificate rejected — No appeal filed in Supreme Court—Effect — Preliminary decree became final — Objection as to maintainability of suit cannot be raised in appeal against final decree (Sept) 751A

— *S. 11* — Suit by landlord for possession — Tenant claiming occupancy rights under *S. 6 (1)* of Madras Estates Land Act (1 of 1908) — Trial Court upholding contention of tenant that he was occupancy tenant — High Court reversing that decision in appeal and remanding case for trial on some other issues that have been not decided earlier — Suit finally decided in favour of landlord by High Court — Order of High Court remanding case was interlocutory judgment not terminating proceedings — Correctness of decision of High Court regarding claim of occupancy right could be challenged in appeal to Supreme Court from final order — Decision of High Court could not operate as res judicata (Sep) 764A

— *Ss. 11, 47 and O. 9, Rr. 8 and 9* — "Heard and finally decided" — Application under *S. 47* resisting execution dismissed for default — Subsequent application not barred. AIR 1947 Pat 298, **Overruled** (Nov) 971A

— *S. 11* — Effect of decision in AIR 1963 Punj 391 — Is to make the Punjab Cattle Fairs (Regulation) Act (6 of 1963) non-existent in law — Act amended in view of the decision — Decision does not operate as res judicata in favour of person who was petitioner in the case — AIR 1963 Punj 391, **Overruled** — *See* Constitution of India, Art. 13 (Nov) 1100A

Civil P. C. (contd.)

—S. 20 — Suit for obtaining relief on ground of fraud—Art. 95 attracted — Fraud committed on 7-1-1924 and discovered on 16-4-1924 — Defendant outside India for several months in 1924 and 1926—Suit instituted on 14-9-1927 in Court at D in India—Defendant residing at place within jurisdiction of Court on that date—Court at D, held had jurisdiction to entertain and try suit, though cause of action for suit arose outside India—A I R 1928 Mad 1088 and A I R 1944 Mad 437 **held rightly overruled** in A I R 1955 Mad 96 (FB) — See Limitation Act (1908), S. 13 (July) 552B

—Ss. 21, 73—Letters Patent (Mad), Cl. 12 —Decree-holder creditors applying for rateable distribution of assets held by executing Court in respect of another decree passed by High Court cannot challenge the decree under which the assets were held, as invalid, on the ground that High Court had no territorial jurisdiction under Cl. 12 of Letters Patent to pass decree for sale of properties outside its local limits of its ordinary original jurisdiction (Dec) 1147D

—S. 33, O. 20, Rr. 4 and 5; O. 49, R. 3 (5)—Contested suit—Trial Court decreeing claim without delivering judgment — High Court also in appeal confirming trial Court's decision without recording reasons—Held there was no real trial of defendant's case (Dec) 1167

—S. 34, O. 34, Rr. 2, 4, 11 — Scope and applicability — Suit by puisne mortgagee—Grant of interest — Principles — Interest awarded on principal at contractual rate till date of suit and simple interest at 6 per cent. per annum from date of suit till date of decree and at same rate till date of realisation — Appeal No. 82 of 1959, D/- 17-1-1962 (Cal), **Reversed** (July) 600B

—S. 35 — Land acquisition proceedings—Compensation awarded by Land Acquisition Officer though substantially enhanced by trial Court and High Court parties directed to bear their own costs—Good reasons given —Claim by claimant highly exaggerated—Bulk of their evidence found unacceptable —Costs being essentially in the discretion of the Courts, the Supreme Court declined to interfere with the order (Mar) 255E

—S. 35—Costs in Supreme Court appeals —Appeal against judgment of High Court in second appeal arising from suit for declaration and mandatory injunction — Appellant not pressing part of his claim—Appellant granted half costs in Supreme Court — Parties directed to bear their own costs in High Court (June) 493B

—S. 35—Costs in Supreme Court appeals —Suit for declaration and for accounts—

Civil P. C. (contd.)

Claim partly reduced — Parties directed to bear their own costs in Supreme Court (July) 552C

—S. 35—Costs in Supreme Court appeals —Representation of the People Act (1951), Ss. 116-A, 100—Dismissal of election petition as well as appeal therefrom — Prevarications of returned candidate not attempted to be explained by his counsel — Petitioner not allowed any costs either in Supreme Court or in High Court (July) 586C

—S. 35, O. 34, R. 10 — Puisne mortgagee also a party in suit by prior mortgagee—Separate suit by puisne mortgagee—Part of claim in respect of interest not decreed—Plaintiff awarded costs proportionate to his success as between attorney and client—Puisne mortgagee held not entitled to costs incurred by him in previous suit in which he was made a party (July) 600C

—S. 47—Decree-holder indebted to bank —Power of attorney by him in bank's favour to execute decree and credit realisations for discharging his debt — Power constitutes equitable assignment and is not revocable — Bank can execute decree in its own rights—See Contract Act (1872), S. 202 (Jan) 73B

—S. 47—Proceedings between benamidar and third party—Death of benamidar — His heirs brought on record — Application by real owner for being brought on record dismissed—Decree against heirs of benamidar —Held on facts that benamidar and his heirs represented real owner and decree was binding on him—See Civil P. C. (1908), S. 11 (Apr) 316A

—S. 47 — Determination of any question within S. 47 is a decree—Appellant can file appeal under S. 96—Appeal is incompetent unless memorandum thereof is accompanied by certified copy of judgment—A I R 1940 Pat 176, **Overruled** — See Civil P. C. (1908), O. 41, R. 1 (July) 575A

—S. 47—Application under resisting execution dismissed for default — Subsequent application not barred—A I R 1947 Pat 298, **Overruled**—See Civil P. C. (1908), S. 11 (Nov) 971A

—Ss. 47, 73 (1), *Proviso (c)*, O. 7, R. 7 and O. 6, R. 17—Decree declaring that the security bond in respect of immovable property would enure for the benefit of plaintiffs decree-holders for the decretal amount—This relief granted on oral prayer of plaintiffs—Decree should not be construed as containing merely a recital of the fact that a security bond had been exempted, because of omission to amend plaint by adding prayer for enforcement of charge — On its true construction the decree held declared

Civil P. C. (contd.)

that the security bond created a charge over the properties in favour of plaintiffs for payment of decretal amount and gave them liberty to apply for sale of properties for the discharge of the incumbrance — Properties sold and assets held by Court — Under S. 73 (1), Proviso (c) proceeds of sale, after defraying expenses of the sale, must be applied in the first instance in discharging the amount due to the decree-holders and the balance left over distributed amongst other decree-holders applying for rateable distribution.

(Dec) 1147C

—S. 47—Rent decree—Order under S. 168 of U. P. Tenancy Act directing delivery of possession to decree-holder — Order relates to execution, discharge or satisfaction of decree and is appealable—I L R (1965) 2 All 383, **Reversed** — See Tenancy Laws — U. P. Tenancy Act (17 of 1939), S. 168 (Dec) 1270

—S. 51 — Sugar company liable to pay income-tax dues, sugarcane cess and price of sugarcane—Amount recoverable as arrears of land revenue — Proceedings under S. 286 (2) of U. P. Act 1 of 1951 — Processes prescribed by Cls. (a) to (e) of S. 279 of U. P. Act 1 of 1951 are not bound to be exhausted by Collector—See Tenancy Laws—U. P. Zamin-dari Abolition and Land Reforms Act, 1950, (1 of 1951), S. 286 (Oct) 897A

—S. 60—Bank holding power of attorney to collect bills due to executant towards bank advances—Order for payment to bank endorsed on bill sent for collection — Bill could not be attached under S. 60—A I R 1963 Madh Pra 132, **Reversed**—See T. P. Act (4 of 1882), S. 130 (Apr) 313

—S. 60 (1) (k) — Subscriber to Railway Provident Fund requesting payment in sterling and by bank draft in a bank in England — Railway administration drawing cheques in favour of Reserve Bank of India with instructions to convert it into sterling and then to transmit amount to subscribers banker in England—Attachment of cheques lying with Reserve Bank in execution of money decree—Validity — Held attachment was contrary to terms of S. 3, Provident Funds Act read with S. 60 (1) (k)—A I R 1962 Cal 169, **Reversed**—See Provident Funds Act (1925), S. 3 (Sep) 762

—S. 73—Decree-holder creditors applying for rateable distribution of assets held by executing Court in respect of another decree passed by High Court cannot challenge the decree under which the assets were held, as invalid, on the ground that High Court had no territorial jurisdiction under Cl. 12 of Letters Patent to pass decree for sale of properties outside its local limits of its ordi-

Civil P. C. (contd.)

nary original jurisdiction — See Civil P. C. (1908), S. 21 (Dec) 1147D

—S. 73 (1), Proviso (c) — Properties sold and assets held by Court under S. 73 (1), Proviso (c) proceeds of sale after defraying expenses of the sale must be applied in the first instance in discharging the amount due to the decree-holder and the balance left over distributed amongst other decree-holders applying for rateable distribution—See Civil P. C. (1908), S. 47 (Dec) 1147C

—S. 80 — Suit against public officer — It must be shown that suit is in respect of an act purporting to be done by him in his official capacity—See Municipalities—Ajmer Marwar Municipalities Regulation (1925), S. 233 (Mar) 227A

—S. 80—Object of — Is to avoid unnecessary litigation, waste of time and public money — Provisions not intended to set up booby-traps against ignorant and illiterate persons (Aug) 674A

—S. 80—Notice—Requirement of—Person issuing notice and person who files suit must be same—Notice held not defective on that ground — F. A. No. 205 of 1950, D/- 24-4-1962 (All), **Reversed** (Aug) 674B

—S. 80—Object of notice under — Compliance with section — Matters to be taken into consideration — Notice given by Karta of joint family — Partition subsequent to notice—Notice held sufficient to sustain suit by divided coparceners — F. A. No. 217 of 1959, D/- 16-4-1963 (M. P.), **Reversed** (Dec) 1256A

—S. 92—Wakf in favour of family members of founder and in favour of public—Suit for removal of mutwalli and appointment of new trustee — Held that the provisions of S. 92 were attracted and the suit filed without the consent of Advocate-General was not maintainable — Test for applicability of S. 92 stated (Oct) 884

—S. 96 — Determination of any question within S. 47 is a decree — Appellant can file appeal under S. 96 — Appeal is incompetent unless memorandum thereof is accompanied by certified copy of judgment. AIR 1940 Pat 176, **Overruled**—See Civil P. C. (1908), O. 41, R. 1 (July) 575A

—S. 96 — Appeal against consent decree — Agreement to refer disputes in pending suits to arbitration of sole judge extra cursum curiae — Under terms of agreement Judge to act in dual capacity as arbitrator and a Judge — Order passed in pursuance of agreement in partition suit — On facts order held to be judgment and preliminary decree and not award — See Arbitration Act (1940), S. (a) and (b) (Dec)

Civil P. C. (contd.)

—S. 99 — Land acquisition proceeding — Compensation awarded by Land Acquisition Officer substantially enhanced by High Court relying on inadmissible evidence — Evidence of claimant rejected by High Court — No appeal by Government against enhancement of compensation — If inadmissible evidence were not relied, the compensation allowed by Land Acquisition Officer would have remained — Claimant cannot therefore complain against High Court that it has taken into consideration inadmissible evidence — See Evidence Act (1872), S. 167

(Mar) 255D

—S. 100 and O. 42, R. 1 — New plea — Plea as to invalidity of exchange of raiyati holding under S. 27, Sonthal Parganas Settlement Regulation raised at stage of arguments in second appeal — High Court held was bound to take notice of it and was not justified in refusing to entertain it. AIR 1964 Pat 254, **Reversed**

(Mar) 204A

—Ss. 100-101 — New point involving pure question of law — Execution of decree — Power of attorney by decree-holder to his agent — Application by agent to execute decree — Objection by decree-holder subsequently that decree is in his name and agent cannot proceed — Objection is legal — Can be raised for first time in second appeal. AIR 1964 All 441, **Reversed**

(Jan) 73

—Ss. 100, 101 — Finding of fact — Finding by lower Courts that increase in rent did not import new demise — Finding cannot be interfered in second appeal (Dec) 1291D

—S. 100 (1) (a) — Powers under, are not co-extensive with those under S. 75 (1), first proviso, Provincial Insolvency Act — See Provincial Insolvency Act (1920), S. 75 (1), first proviso (Dec) 1344A

—S. 105 (2) — Points decided by interlocutory order of single Judge can be canvassed — S. 105 (2), Civil P. C. does not apply — See Letters Patent (Bom.), Cl. 15

(July) 560B

—S. 107 — Appeal to Supreme Court — Finding of fact and appreciation of evidence — Practice — Supreme Court should be slow to depart from the conclusion of the trial Judge — See Representation of the People Act (1951), S. 116A

(May) 395B

—S. 107 — Powers of appellate Court — Held on facts that the High Court was not legally justified in giving further relief to plaintiff by remanding case with direction that defendant should be asked to render account than that granted by trial Court. S. As. Nos. 4940 and 3660 of 1961, D/- 27-4-1964 (All.), **Reversed** — See Civil P. C. (1908), O. 41, R. 33

(Dec) 1316B

Civil P. C. (contd.)

—S. 107 — Covenant of forfeiture of tenancy for non-payment of rent — Passing of decree for ejectment of tenant by trial Court — No bar to jurisdiction of appellate Court to grant relief against forfeiture — See Transfer of Property Act (1882), S. 114

(Dec) 1349A

—S. 112 — Appeal to Supreme Court — Finding of fact and appreciation of evidence — Practice — Supreme Court should be slow to depart from the conclusion of the trial Judge — See Representation of the People Act (1951), S. 116A

(May) 395B

—S. 112 — See Constitution of India, Art. 136

—S. 115, O. 20, Rr. 12, 17 — Exercise of jurisdiction illegally or with material irregularity — Suit by landlord against tenant for possession, arrears of rent and mesne profits — In decree passed in such suit, Court giving direction that landlord do render account of overpayments made to him — Court acts illegally and with material irregularity — High Court has full power to revise this decree under S. 115 and give such direction in the matter as it thinks fit

(Jan) 37A

—S. 115 — High Court cannot in revision, determine amount of compensation — See Municipalities — M. B. Municipal Corporation Act (23 of 1956), S. 392

(July) 579C

—S. 146 — Decree-holder indebted to bank — Power of attorney by him in bank's favour to execute decree and credit realisations for discharging his debt — Bank can execute decree in its own rights under S. 146, though not under O. 21, R. 16 — See Contract Act (1872), S. 202

(Jan) 73B

—S. 151 — Decree obtained by creditor against debtor and surety — Direction therein to exhaust remedies against debtor first — Ends of justice not requiring such direction — Direction not valid under S. 151 — A. F. O. D. No. 300 of 1959 D/- 3-12-1962 (Pat), **Reversed** — See Contract Act (1872), S. 128

(Apr) 297

—S. 151 — Eviction order against plaintiff — Suit by plaintiff for permanent injunction restraining defendant from taking possession in execution of order — Application by plaintiff under O. 39, Rr. 1 and 2 and S. 151 for grant of temporary injunction — Trial Court dismissed application holding that no prima facie case had been made out and that liability to be ejected in execution of a valid order could not be said to be "injury" within O. 39, R. 2 — Order of dismissal is appealable under O. 43, R. 1 — Order cannot be said to have been passed under S. 151 inasmuch as for holding that O. 39, R. 2 did not apply the Court was not

Civil P. C. (contd.)

exercising its inherent powers. Civil Revn. No. 422 of 1968 D/- 22-5-1968 (Punj. & Har.), **Reversed** — See Civil P. C. (1908), O. 39, R. 2 (Nov) 938

—O. 1, R. 10 — Parties and representatives — Benamidar can represent real owner — See Civil P. C. (5 of 1908), S. 11 (Apr) 316A

—O. 1, R. 10 — Election petition — Candidate against whom charge of corrupt practice is made must be joined as party — Provisions of O. 1, R. 10 cannot be used as curative means to save election petition — See Representation of the People Act (1951), S. 86 (1) (Aug) 677A

—O. 1, R. 10 — Election petition—Necessary party not joined within limitation for filing petition — High Court has no power to allow addition after the limitation — Limitation Act does not apply—Civil P. C., O. 6, R. 17 and O. 1, R. 10 have no application — See Representation of the People Act (1951 as amended in 1966), S. 81 (Oct) 872B

—O. 2 (2) — Determination of any question within S. 47 is a decree. AIR 1940 Pat 176, **Overruled**—See Civil P. C. (1908), O. 41, R. 1 (July) 575A

—O. 3, R. 4, O. 7, R. 7 — (Practice—Duty of counsel) — Before tall claims are made which cannot stand against law and the Constitution, those that make them should reasonably be sure that they are right (Oct) 903H

—O. 6, R. 2 — Pleadings — Pleadings on certain point vague but all facts necessary for determination of point were before Court — Objection cannot be taken to consideration of point in appeal by Supreme Court — See Constitution of India, Art. 133 (Jan) 125C

—O. 6, R. 2 — Suit for ejectment by landlord against tenant — Denial by tenant that he has sub-let premises — No pleading or issue that permission to sub-let taken — Court has no jurisdiction to decide whether permission was granted — See Civil P. C. (1908), O. 14, R. 2 (Dec) 1291E

—O. 6, R. 4 — Corrupt practice by undue influence must be pleaded—Pleadings must set out full facts—See Representation of the People Act (1951), S. 123 (2) (July) 583A

—O. 6, R. 9—Election petition—Pleading and proof—Plea of corrupt practice of hiring or procuring motor cars to carry voters — Particulars of cars and voters given —

—Connection of candidate with use of cars sufficiently pleaded — As to who hired or procured cars is matter of evidence — See Representation of the People Act (1951), S. 125 (5) (Aug) 692B

—O. 6, R. 17 — Election petition—Candidate against whom charge of corrupt practice

Civil P. C. (contd.)

is made must be joined as party—Provisions of O. 6, R. 17 cannot be used as curative means to save election petition—See Representation of the People Act (1951), S. 86 (1) (Aug) 677A

—O. 6, R. 17 — Election petition—Necessary party not joined within limitation for filing petition—High Court has no power to allow addition after the limitation — Limitation Act does not apply—Civil P. C., O. 6, R. 17 and O. 1, R. 10 have no application—See Representation of the People Act (1951 as amended in 1966), S. 81 (Oct) 872B

—O. 6, R. 17 — Decree declaring that the security bond in respect of immovable property would enure for the benefit of plaintiffs decree-holders for the decretal amount — This relief granted on oral prayer of plaintiffs — Decree should not be construed as containing merely a recital of the fact that a security bond had been exempted, because of omission to amend plaint by adding prayer for enforcement of charge—On its true construction the decree held declared that the security bond created a charge over the properties in favour of plaintiffs for payment of decretal amount and gave them liberty to apply for sale of properties for the discharge of the incumbrance—See Civil P. C. (1908), S. 47 (Dec) 1147C

—O. 6, R. 17 and 153 and O. 30, R. 1 — Amendment of plaint—Discretion of Court — Not to be refused on technical grounds—AIR 1965 All 586, **Reversed** (Dec) 1267A

—O. 6, R. 153—Case where Civil P. C. does not permit suit to be brought in firm name — Description of plaintiff by firm name—Such a misdescription can be corrected by amendment of plaint — AIR 1965 All 586, **Reversed**—See Civil P. C. (1908), O. 6, R. 17 (Dec) 1267A

—O. 7, R. 7 — Practice—Duty of counsel — Before tall claims are made which cannot stand against law and the Constitution those that make them should reasonably be sure that they are right — See Civil P. C. (1908), O. 3, R. 4 (Oct) 903H

—O. 7, R. 7 — Decree declaring that the security bond in respect of immovable property would enure for the benefit of plaintiffs decree-holders for the decretal amount — This relief granted on oral prayer of plaintiffs — Decree should not be construed as containing merely a recital of the fact that a security bond had been exempted, because of omission to amend plaint by adding prayer for enforcement of charge—On its true construction the decree held declared that the security bond created a charge over the properties in favour of plaintiffs for payment of decretal amount and gave them

Civil P. C. (contd.)

liberty to apply for sale of properties for the discharge of the incumbrance—*See* Civil P. C. (1908), S. 47 (Dec) 1147C

—O. 9, R. 8—Application under S. 47 resisting execution dismissed for default—Subsequent application not barred—AIR 1947 Pat 298, **Overruled**—*See* Civil P. C. (1908), S. 11 (Nov) 971A

—O. 9, R. 9—Application under S. 47 resisting execution dismissed for default—Subsequent application not barred—AIR 1947 Pat 298, **Overruled**—*See* Civil P. C. (1908), S. 11 (Nov) 971A

—O. 14, R. 2; O. 6, R. 2—Suit for ejectment by landlord against tenant—Denial by tenant that he has sub-let premises—No pleading or issue that permission to sub-let taken—Court has no jurisdiction to decide whether permission was granted (Dec) 1291E

—O. 16, R. 14—Election Tribunal has power under O. 16, R. 14, C. P. C. to suo motu summon Court witnesses—*See* Representation of the People Act (1951), S. 90 (1) (Aug) 692A

—O. 16, R. 14—Election petition—Allegation of corrupt practice—Application under O. 16, R. 14, Civil P. C.—Petitioner's version found to be not true—Held, there was no compelling reason for High Court to examine P as Court witness—*See* Representation of the People Act (1951), S. 90 (Nov) 1034E

—O. 20, R. 4—Evidence—Land acquisition proceedings—Market value of land—Reference by appellate Court after conclusion of arguments to documents which are not part of record is not permissible—AIR 1964 Madh Pra 196, **Reversed**—*See* Evidence Act (1872), S. 3 (Mar) 255B

—O. 20, R. 4—Contested suit—Trial Court decreeing claim without delivering judgment—High Court also in appeal confirming trial Court's decision without recording reasons—Held there was no real trial of defendant's case—*See* Civil P. C. (1908), S. 33 (Dec) 1167

—O. 20, R. 5—Contested suit—Trial Court decreeing claim without delivering judgment—High Court also in appeal confirming trial Court's decision without recording reasons—Held there was no real trial of defendant's case—*See* Civil P. C. (1908), S. 33 (Dec) 1167

—O. 20, R. 11 (1)—Decree obtained by creditor against debtor and surety—Direction therein to first exhaust remedies against debtor—Direction, held, not justified under O. 20, R. 11 (1)—A. F. O. D. No. 300 of 1959, D/- 3-12-1962 (Pat), **Reversed**—*See* Contract Act (1872), S. 128 (Apr) 297

—O. 20, R. 12—Suit by landlord against tenant for possession, arrears of rent and

Civil P. C. (contd.)

mesne profits—In decree passed in such suit, Court giving direction that landlord do render account of over payments made to him—Court acts illegally and with material irregularity—*See* Civil P. C. (1908), S. 115 (Jan) 37A

—O. 20, R. 17—Suit by landlord against tenant for possession, arrears of rent and mesne profits—In decree passed in such suit, Court giving direction that landlord do render account of over payments made to him—Court acts illegally and with material irregularity—*See* Civil P. C. (1908), S. 115 (Jan) 37A

—O. 21, R. 16—Decree-holder indebted to Bank—Power of attorney by him in Bank's favour to execute decree and credit realisations for discharging his debt—Bank can execute decree in its own rights under S. 146, though not under O. 21, R. 16—*See* Contract Act (1872), S. 202 (Jan) 73B

—O. 21, R. 30 (e)—Sugar company liable to pay income-tax dues, sugarcane cess and price of sugarcane—Amount recoverable as arrears of land revenue—Proceedings under S. 286 (2)—Processes prescribed by Cls. (a) to (e) of S. 279 are not bound to be exhausted by Collector—*See* Tenancy Laws—U. P. Zamindari Abolition and Land Reforms Act, 1950 (1 of 1951), S. 286 (Oct) 897A

—O. 21, R. 35—Proceedings between benamidar and third party—Death of benamidar—His heirs brought on record—Dismissal of application of real owner for being brought on record—Decree against legal heirs of benamidar—Real owner is bound by decree—Decree can be executed against him—*See* Civil P. C. (5 of 1908), S. 11 (Apr) 316A

—O. 21, R. 50—Collector can execute certificate of demand against a "partner" of unregistered firm under O. 21, R. 50 which applies by virtue of proviso to S. 46 (2)—*See* Income-tax Act (1922), S. 46 (Aug) 667B

—O. 21, R. 52—Attachment of Provident Fund cheques of a retired railway employee lying with Reserve Bank in execution of money decree was contrary to terms of S. 3, Provident Funds Act, because obligation of railway administration could not be said to have been discharged till directions of subscriber regarding transmission of fund were complied with. AIR 1962 Cal 169, **Reversed**—*See* Provident Funds Act (1925), S. 3 (Sep) 762

—O. 21, R. 58—Subscriber to Railway Provident Fund requesting payment in sterling and by Bank draft in a bank in England—Attachment of cheques drawn by Railway lying with Reserve Bank in execu-

Civil P. C. (contd.)

tion of money decree was bad — Union of India, being trustee for subscriber had interest to maintain application for removal of attachment—A I R 1962 Cal 169, **Reversed**—*See* Provident Funds Act (1925), S. 3: (Sep) 762

—O. 23, Rr. 1 and 3 — C, a trespasser, dispossessing A in possession of land in lieu of maintenance — Suit for declaration of right and possession by A joining B as co-plaintiff — B compromising with C applying for withdrawal of suit — Court cannot dismiss the suit of A on the basis of the application. Misc. Appeal No. 22 of 1962, D/- 17-9-1962 (M.P.), **Reversed** (Dec) 1118

—O. 23, R. 3 — C, a trespasser, dispossessing A in possession of land in lieu of maintenance — Suit for declaration of right and possession by A joining B as co-plaintiff — B compromising with C applying for withdrawal of suit — Court cannot dismiss the suit of A on the basis of the application. Misc. App. No. 22 of 1962 D/- 17-9-1962, (M.P.), **Reversed**—*See* Civil P. C. (1908), O. 23, R. 1 (Dec) 1118

—O. 30, R. 1—Case where Civil P. C. does not permit suit to be brought in firm name — Description of plaintiff by firm name — Such a misdescription can be corrected by amendment of plaint — A I R 1965 All 586, **Reversed**—*See* Civil P. C. (1908), O. 6, R. 17 (Dec) 1267A

—O. 34, R. 1—Puisne mortgagee party in prior mortgagee's suit—Claim of prior mortgagee satisfied by payments made by mortgagor before sale — Puisne mortgagee is entitled to institute separate suit in respect of his mortgage — *See* Transfer of Property Act (1882), S. 67 (July) 600A

—O. 34, R. 2 — Scope and applicability—Suit by puisne mortgagee—Grant of interest — Principles — Appeal No. 82 of 1959, D/- 17-1-1962 (Cal.), **Reversed** — *See* Civil P. C. (1908), S. 34 (July) 600B

—O. 34, R. 4 — Puisne mortgagee party in prior mortgagee's suit—Claim of prior mortgagee satisfied by payments made by mortgagor before sale — Puisne mortgagee is entitled to institute separate suit in respect of his mortgage — *See* Transfer of Property Act (1882), S. 67 (July) 600A

—O. 34, R. 4 — Scope and applicability — Suit by puisne mortgagee—Grant of interest — Principles — Appeal No. 82 of 1959, D/- 17-1-1962 (Cal.), **Reversed** — *See* Civil P. C. (1908), S. 34 (July) 600B

—O. 34, R. 7—Suit for accounting and decree for surplus—If a suit for redemption—*See* Constitution of India, Art. 133 (Sep) 751A

—O. 34, R. 9 — Suit for accounting and decree for surplus — If a suit for redemption

Civil P. C. (contd.)

—*See* Constitution of India, Art. 133

(Sept) 751A

—O. 34, R. 9 — Suit for accounts and decree for surplus under S. 76, T. P. Act read with O. 34, R. 9, Civil P. C.—Is not covered by S. 2 (3) (b) of Usurious Loans Act (1918) —*See* Usurious Loans Act (1918), S. 2 (3) (b)

(Sept) 751D

—O. 34, R. 10 — Puisne mortgagee also a party in suit by prior mortgagor — Separate suit by puisne mortgagee—Part of claim in respect of interest not decreed — Plaintiff awarded costs proportionate to his success as between attorney and client—Puisne mortgagee held not entitled to costs incurred by him in previous suit in which he was made a party—*See* Civil P. C. (1908), S. 35 (July) 600C

—O. 34, R. 11—Scope and applicability — Suit by puisne mortgagee—Grant of interest — Principles — Appeal No. 82 of 1959, D/- 17-1-1962 (Cal.), **Reversed** — *See* Civil P. C. (1908), S. 34 (July) 600B

—O. 34, R. 11—Suit on mortgage — Calculation of interest from date of decree to date of realisation — There is no conflict between S. 17 and Civil P. C., O. 34, R. 11 — Interest should be awarded in accordance with O. 34, R. 11 — A I R 1959 Mys 102, **Reversed** — *See* Debt Laws — Mysore Money Lenders Act (13 of 1939), S. 17 (Aug) 671D

—O. 39, R. 2; O. 43, R. 1 and S. 151—Eviction order of Rent Controller obtained by defendant against plaintiff—Suit by plaintiff for permanent injunction restraining defendant from taking possession in execution of order—Application by plaintiff under O. 39, Rr. 1 and 2 and S. 151 for grant of temporary injunction — Trial Court dismissed application holding that no prima facie case had been made out and that liability to be ejected in execution of a valid order could not be said to be "injury" within O. 39, R. 2 — Order of dismissal is appealable under O. 43, R. 1 — Order cannot be said to have been passed under S. 151 inasmuch as for holding that O. 39, R. 2 did not apply the Court was not exercising its inherent powers — Civil Revn. No. 422 of 1968, D/- 22-5-1968 (Punj. & Har.), **Reversed** (Nov) 938

—O. 39, R. 9 — Writ petitions by private operators against order of R. T. A. granting permit to State Road Transport Corporation —*See* Motor Vehicles Act (1939), S. 48

(Apr) 329D

—O. 41, R. 1, O. 2 (2); Ss. 47, 96 — Determination of any question within S. 47 is a decree — Appellant can file appeal under S. 96—Appeal is incompetent unless memorandum thereof is accompanied by certified copy of judgment — AIR 1940 Pat 176, **Overruled** (July) 575A

Civil P. C. (contd.)

—*O. 41, R. 1* — Delay in filing appeal — Sufficient cause — Delay condoned under S. 5, Limitation Act (1963) — (1968) 70 Punj L R (D) 332, **Reversed** — *See* Limitation Act (1963), S. 5 (July) 575B

—*O. 41, R. 27* — Scope — Appeal before Supreme Court — Request for direction to produce certain register — Even if register is produced, oral evidence to prove that register and to meet inferences following from that register necessary — Held that in the circumstances request or summoning of that register could not be allowed (Jan) 101A

—*O. 41, R. 27* — Evidence — Land acquisition proceedings — Market value of land — Reference by appellate Court after conclusion of arguments to documents which are not part of record is not permissible — They should be admitted as fresh evidence and parties given opportunity to rebut them. AIR 1964 Madh Pra 196, **Reversed** — *See* Evidence Act (1872), S. 3 (Mar) 255B

—*O. 41, R. 33* — “Which ought to have been passed” means “which ought in law to have been passed” — Decree allowing claims of female heirs who had not appealed passed — S. A. No. 254 of 1962, D/- 18-11-1963 (Punj), **Reversed** (Dec) 1144B

—*O. 41, R. 33; O. 42, R. 1, S. 107* — Powers of appellate Court — Held, on facts that the High Court was not legally justified in giving further relief to the plaintiff by remanding the case with a direction that defendants should be asked to render account than that granted by the trial Court — S. A. Nos. 4940 and 3660 of 1961, D/- 27-4-1964 (All), **Reversed** (Dec) 1316B

—*O. 42, R. 1* — New plea — Plea as to invalidity of exchange of raiyati holding under S. 27, Sonthal Parganas Settlement Regulation raised at stage of arguments in second appeal — High Court held was bound to take notice of it and was not justified in refusing to entertain it — AIR 1964 Pat 254, **Reversed** — *See* Civil P. C. (1908), S. 100 (Mar) 204A

—*O. 42, R. 1* — Powers of appellate Court — Held, on facts that the High Court was not legally justified in giving further relief to plaintiff by remanding case with direction that defendants should be asked to render account than that granted by trial Court — S. As. Nos. 4940 and 3660 of 1961, D/- 27-4-1964 (All), **Reversed** — *See* Civil P. C. (1908), O. 41, R. 33 (Dec) 1316B

—*O. 43, R. 1* — Eviction order against plaintiff — Suit by plaintiff for permanent injunction restraining defendant from taking possession in execution of order — Application by plaintiff under O. 39, Rr. 1 and 2 and

Civil P. C. (contd.)

S. 151 for grant of temporary injunction — Trial Court dismissed application holding that no prima facie case had been made out and that liability to be ejected in execution of a valid order could not be said to be “injury” within O. 39, R. 2 — Order of dismissal is appealable under O. 43, R. 1 — Civil Revn. No. 422 of 1968, D/- 22-5-1968 (Punj. & Har.), **Reversed** — *See* Civil P. C. (1908), O. 39, R. 2 (Nov) 938

—*O. 47, R. 1* — Order granting permit not giving date of commencement — Later order giving such date, is not an order of review — *See* Motor Vehicles Act (1939), S. 48 (Apr) 329C

—*O. 49, R. 3(5)* — Contested suit — Privilege under, cannot be claimed — *See* Civil P. C. (1908), S. 33 (Dec) 1167

—*First Schedule, App. D, Form 5-A* — Puisne mortgagee party in prior mortgagee's suit — Claim of prior mortgagee satisfied by payments made by mortgagor before sale — Puisne mortgagee is entitled to institute separate suit in respect of his mortgage — He can ask for decree in Form 5-A of App. D in Sch. I of Civil P. C. — *See* Transfer of Property Act (1882), S. 67 (July) 600A

—*Sch. 7, List 1, Item 10* — Boundary dispute between two independent States — Treaty and arbitration award of International Tribunal — Implementation of — Powers of Executive and Parliament — Extent of — *See* Constitution of India, Art. 1(3) (Sep) 783C

—*Sch. 7, List 1, Item 14* — Boundary dispute between two independent States — Treaty and arbitration award of International Tribunal — Implementation of — Powers of Executive and Parliament — Extent of — Jurisdiction of municipal Courts — Cession of Indian Territory cannot be made without amendment of the Constitution — Indo-Pakistan Western Boundary Case Tribunal award regarding Rann of Kutch — Held, could be implemented by Government of India without any constitutional amendment — *See* Constitution of India, Art. 1(3) (Sep) 783C

CIVIL SERVICES

—**Indian Police Service (Appointment by Promotion) Regulation (1955), Regn. 5** — Pre-existing Draft Rules for preparation of select list, R. 2 — List of Police Service Officers ‘fit for trial to promotion posts’ purporting to be made under draft R. 2, held could not be deemed to be select list within meaning of either Draft R. 2 or Promotion Regn. 5 — I L R (1967) Cut 735, **Reversed** — *See* Civil Services — Indian Police Service (Regulation of Seniority) Rules (1954), R. 3(3)(b) (Dec) 1249A

Civil Services (contd.)

—Indian Police Service (Regulation of Seniority) Rules (1954), R. 3(3)(b), *Second Proviso*

—Indian Police Service (Appointment by Promotion) Regulation (1955), Regn. 5 — Pre-existing Draft Rules for preparation of select list, R. 2 — Lists of Police Service Officers 'fit for trial to promotion posts' purporting to be made under Draft R. 2, held could not be deemed to be 'select lists' within meaning of either Draft R. 2 or Promotion Regn. 5—ILR (1967) Cut 735, **Reversed**

(Dec) 1249A

—R. 3(3)(b), *Second Proviso and Explan. 1*—

Scope—Object of second proviso and Explanation 1—Officer appointed by promotion—

Fixation of seniority and year of allotment

—Period of officiation prior to inclusion of officer in select list — Period could only be counted, if approved by Central Government in consultation with commission —

Approval to be recorded only after appointment to I. P. S. and not before—I L R (1967) Cut 735, **Reversed**

(Dec) 1249B

—R. 3(3)(b), *Provisos*—Petitioner governed by second proviso — There can be no question of discrimination in consideration of seniority—I L R (1967) Cut 735, **Reversed** —

See Constitution of India, Art. 14

(Dec) 1249C

—Punjab Police Rules (1934), Chap. XVI

R. 28 — Summary inquiry against Assistant Sub-Inspector of Police—Order of censure

—Order set aside under R. 28 and departmental inquiry ordered — Procedure prescribed under R. 38 has to be followed — See

Civil Services—Punjab Police Rules (1934), Chap. XVI, R. 38

(Dec) 1108

—Chap. XVI, Rules 38 and 28 — Complaint against Assistant Sub-Inspector of Police for receiving illegal gratification — Superintendent of Police (City) making summary inquiry and passing an order of censure —

Deputy Inspector-General, under Rule 28, setting aside the order and ordering to deal with the matter departmentally — Superintendent of Police (Central District), to whom inquiry was entrusted, asking for the sanction of District Magistrate to proceed departmentally — District Magistrate not informed of the previous order of Superintendent of Police (City) and its setting aside by Deputy Inspector-General—District Magistrate

sanctioning to proceed departmentally without recording any reasons — Departmental action taken against the Assistant Sub-Inspector is invalid as there has been no substantial compliance with the provisions of R. 38

(Dec) 1108

—Railway Establishment Code R. 157—Railway Board can make rules with retrospec-

Civil Services—Railway Establishment Code (contd.)

tive effect — See Constitution of India, Art. 309, Proviso (Jan) 118A

—R. 157—Cancellation or amendment of approved panels of selected candidates —

General direction by Railway-Board, D/-

4-8-1953 that panels once approved should not be cancelled or amended without reference to authority next above the one that approved the panel — General Manager, Northern Railway who had approved a particular panel of selected candidates has power to amend the panel subsequently with the approval of Railway Board who was the authority next above him

(Mar) 212A

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Commissions of Inquiry Act (contd.)

—S. 3 — Appointment of Commission of Inquiry under Commissions of Inquiry Act, during pendency of civil litigation, when amounts to contempt of Court — Inquiry cannot be said to be judicial. — Commission cannot commit contempt, being statutory commission. *See Contempt of Courts Act (1952)*, S. 1 (Mar) 215C

—S. 3 — Commission can be appointed to look into conduct of former ministers (Apr) 258B

—S. 3 — Appointment of commission of inquiry to enquire into conduct of ex-ministers — Request to Supreme Court, in special appeal against decision of High Court holding appointment of Inquiry Commission legal, to summon relevant files so that falsity of the charges might be established — Request not acceded on ground that once it was held by Supreme Court that inquiry was legal, the truth or otherwise of the allegations was for the commission's consideration — *See Constitution of India*, Art. 136 (Apr) 258C

—S. 3 — Charges against ex-ministers specific and records rather than oral testimony to be used to establish them — Affidavit making out sufficient case for inquiry — Each charge referring in detail to events with dates and names of persons concerned — Charges, held, such that inquiry could be ordered (Apr) 258D

—S. 3 — Commission directed to inquire into conduct of certain named persons who were ministers in the outgoing ministry — Commission also directed by Cl. (d) of notification to inquire whether any other person, besides the named individuals, whether as member of Council of Ministers or otherwise, made illegal gains during the period — Later on, Cl. (d) deleted — Deletion challenged on ground that it was deleted for fear that it might recoil on persons who started the inquiry — Held that it was unlikely that the Commission would overlook evidence which pointed to corruption or malpractice in others. Even if no direct finding was given there would be ample reference to these matters in the report, in spite of the deletion of the clause (Apr) 258E

—S. 3 — Appointment of Commission to inquire into conduct of ministers of outgoing ministry challenged before Supreme Court as being mala fide — Held that question of mala fide could only be decided if it could be held that charges were false — Whether they led to the conclusion that the inquiry was justified or it was malicious could not be said when there were only

Commissions of Inquiry Act (contd.)

allegations and recriminations but no evidence — If the charges had been made maliciously or falsely, the Commission would say so, where necessary — Supreme Court could not anticipate the inquiry and hold one themselves (Apr) 258F

Companies Act (1 of 1956), Ss. 2 (18) and 617 — Industrial Disputes Act (1947), S. 2 (j) — Company — Shares held by Union Government, State Government and private individuals — Union Government being largest share-holder nominating Company's directors — Held, that the Company being registered under the Companies Act and governed by the provisions of that Act, it was a separate legal entity and could not be said to be either a Government Corporation or an industry run by or under the authority of the Union Government (Dec) 1306B

—S. 34 — Lifting veil of corporate entity — Doctrine of — Can be applied by Court when conception of corporate entity is used for evasion of tax or for perpetrating fraud (Nov) 932A

—S. 78 (1) and (3) — Share premium account in reserves — Account identifiable as separate account within reserves — Account liable to be included in paid up capital in computing reduction in rebate of super tax. *See Finance Acts (1956 and 1957)*, Explanation to Para. D, Part II (Nov) 1058

—S. 205 — Computation of gross profits and deduction of depreciation for calculating available surplus under Bonus Act and that under Companies Act for distribution of dividend — Distinction between pointed out — *See Payment of Bonus Act (1965)*, S. 2 (18) (Aug) 612A

—S. 211 — Interest on capital reserve — Allowance for — Transfer of increased value of assets on revaluation to capital reserve accounts — Interest thereon allowed to be deducted from gross profits. *See Payment of Bonus Act (1965)*, S. 6 (d) : (Aug) 612E

—Ss 235 to 237 — Investigation into affairs of Company — Power of Central Government under S. 235 as well as under S. 237 (b) is discretionary — But under S. 237 (a) Government is bound to appoint inspector for investigation if the Company by special resolution or the Court by order declares that affairs of Company ought to be investigated — Action under S. 235 can be taken provided certain pre-conditions including those mentioned in S. 236 are fulfilled — Such investigation is a serious matter and should not be ordered except on good or satisfactory grounds — Order for investigation is liable to be struck down if on

Companies Act (contd.)

material before it no reasonable authority would have acted (Aug) 707A

—S. 236 — Action under S. 235 can be taken provided certain preconditions including those mentioned in S. 236 are fulfilled — Such investigation is a serious matter and should not be ordered except on good or satisfactory grounds — Order for investigation is liable to be struck down if on material before it no reasonable authority would have acted. *See* Companies Act (1956), S. 235 (Aug) 707A

—S. 237 — Under S. 237 (a) Government is bound to appoint inspector for investigation if the company by special resolution or the Court by order declares that affairs of company ought to be investigated. *See* Companies Act (1956), S. 235 (Aug) 707A

—S. 237 (b) — Scope and interpretation — "If in the opinion of the Central Government there are circumstances suggesting" — Existence of circumstances mentioned in S. 237 (b) is condition precedent to formation of opinion by Government — Existence of circumstances but not the opinion formed thereon is open to judicial review — Held on facts that opinion formed by Government under S. 237 (b) was not in accordance with law and the order for investigation must be set aside. 1967 BLJR 537, Reversed — View taken by Sarkar C. J. and Mudholkar, J. in AIR 1967 S C 295, Not approved (Aug) 707B

—S. 366 — Compensation for termination of managing agency — Claim for allowance under S. 10 (2) (xv) of Income-tax Act (1922) by assessee Company — Burden of proof lay upon company to prove that expenditure was incurred wholly and exclusively for business of the Company — Absence of reliable evidence to prove that managing agency was rendering any service — Removal of managing agency, not connected with business — Expenditure in paying compensation held could not be said to be made wholly and exclusively in the interest of the business of the Company — *See* Income-tax Act (1922), S. 10 (2) (xv) (Oct) 917B

—Ss. 498, 509 and 527 — Property of dissolved company — Shareholders or creditors of the dissolved company cannot maintain any action for recovery of its assets — Difference in American law and Indian law stated (Oct) 843D

—S. 509 — Property of dissolved company — Share-holders or creditors of the dissolved company cannot maintain any action for recovery of its assets — Difference in American law and Indian law stated. *See* Companies Act (1956), S. 498 (Oct) 843D

Companies Act (contd.)

—S. 527 — Property of dissolved company — Share-holders or creditors of the dissolved company cannot maintain any action for recovery of its assets — Difference in American law and Indian law stated — *See* Companies Act (1956), S. 498 (Oct) 843D

—S. 617 — Company — Shares held by Union Government, State Government and private individuals — Union Government being largest share-holder nominating Company's director — Held, that the Company being registered under the Companies Act and governed by the provisions of that Act, it was a separate legal entity and could not be said to be either a Government, Corporation or an industry run by or under the authority of the Union Government — *See* Companies Act (1956), S. 2 (18) (Dec) 1306B

—Sch. VI — Accrued liability though not actually paid is permissible deduction under Income-tax Act and Wealth Tax Act — *See* Payment of Bonus Act (1965), S. 4 (Aug) 612D

—Sch. VI — Interest on capital reserve — Allowance for — Transfer of increased value of assets on revaluation to capital reserve accounts — Interest thereon allowed to be deducted from gross profits — *See* Payment of Bonus Act (1965), S. 6 (d) (Aug) 612E

—Sch. VI, Part III, Cl. 7 (1) — Provision and Reserve — Distinction between pointed out (Aug) 612G

Conduct of Election and Election Petition Rules (1951), R. 58 — Election petition — Pleas — Contention about wrong refusal of demand of general recount — Absence of plea in this regard — Mention of general recount only in relief clause of petition — Held under the circumstances, that there was no room for further count — *See* Representation of the People Act (1951), S. 116A (July) 586B

—R. 64 — Election petition — Pleas — Contention about wrong refusal of demand of general recount — Absence of plea in this regard — Mention of general recount only in relief clause of petition — Held under the circumstances, that there was no room for further count — *See* Representation of the People Act (1951), S. 116A (July) 586B

Constitution of India, Preamble — Interpretation of Constitution — Clear and unambiguous expressions — They must be given their full and unrestricted meaning, unless hedged-in, by any limitations (Jan) 115B

—Pre. and Arts. 31, 31-A and 246, Sch. 7, List I entry 33 and List II, entry 36 and List III, entry 42 (prior to 7th Amendment of Constitution) — Interpretation of legislative lists — Implied restrictions cannot be imported into legislative heads when expressly provided in body

Constitution of India (contd.)

of Constitution — Expressions 'acquisition of property' and "subject to the provisions of entry 42 of List III" in entry 36 of List II — Interpretation of (Jun) 453B

— *Arts. 1 (3), 3, 51, 73, 253 and Sch. 7, List I, Items 10, 14 and 15* — Scope — Boundary dispute between two independent States — Treaty and arbitration award of International Tribunal — Implementation of — Powers of Executive and Parliament — Extent of — Jurisdiction of municipal Courts — Cession of Indian Territory cannot be made without amendment of the Constitution — Indo-Pakistan Western Boundary Case Tribunal Award regarding Rann of Kutch — Held could be implemented by Government of India without any constitutional amendment (Sep) 783C

— *Art. 3* — Scope — Boundary dispute between two independent States — Treaty and arbitration award of International Tribunal — Implementation of — Powers of Executive and Parliament — Extent of — Jurisdiction of Municipal Courts — Cession of Indian territory cannot be made without amendment of the Constitution — Indo-Pakistan Western Boundary Case Tribunal Award regarding Rann of Kutch — Held could be implemented by Government of India without any constitutional amendment — See Constitution of India, Art. 1 (3) (Sep) 783C

— *Art. 5* — Municipal Committee is not "citizen" — See Constitution of India, Art. 19 (Nov) 1100D

— *Art. 5* — Acquisition of foreign citizenship by Indian citizen prior to Constitution — He cannot claim citizenship of India by virtue of Arts. 5 and 6 or 8 — See Constitution of India, Art. 9 (Dec) 1234B

— *Art. 6* — Acquisition of foreign citizenship by Indian citizen prior to Constitution — He cannot claim citizenship of India by virtue of Arts. 5 and 6 or 8 — See Constitution of India, Art. 9 (Dec) 1234B

— *Art. 8* — Acquisition of foreign citizenship by Indian citizen prior to Constitution — He cannot claim citizenship of India by virtue of Arts. 5 and 6 or 8 — See Constitution of India, Art. 9 (Dec) 1234B

— *Arts. 9, 5, 6 and 8* — Article 9 deals with cases where citizenship of foreign State had been acquired by Indian citizen prior to Constitution and means that he cannot claim citizenship of India by virtue of Articles 5 and 6 or 8 (Dec) 1234B

— *Art. 11* — Citizenship Act (1955) has been enacted under powers of Parliament preserved by Art. 11 — See Citizenship Act (1955), S. 9 (Dec) 1234A

— *Art. 12* — See Constitution of India, Article 31 (2) and (5) (b) (ii) (Aug) 634B

Constitution of India (contd.)

— *Arts. 13 and 14* — Executive instructions — Statutory provisions must prevail over executive instructions (Jan) 33B

— *Art. 13* — S. 4 read with Schedule of Kerala Buildings Tax Act is violative of equality clause of the Constitution and is ultra vires — See Kerala Buildings Tax Act (19 of 1961), S. 4 (May) 378

— *Arts. 13, 246, 226, 32, Sch. 7, List 2, Entry 28* — Statute cannot be declared invalid on ground that it violates the due process of law or is vague — Punjab State Legislature is competent to enact Punjab Cattle Fairs (Regulation) Act (6 of 1968) by virtue of Entry 28 of List 2 of 7th Schedule — Effect of decision in AIR 1968 Punj 391 is to make the Act as non-existent in law — Act amended in view of the decision — Decision does not operate as res judicata in favour of person who was petitioner in the case — Expression "cattle fair" — Meaning — AIR 1968 Punj 391, **Overruled** (Nov) 1100A

— *Arts. 13, 14, 19, 31* — Punjab Cattle Fairs (Regulation) Act (6 of 1968), Pre., Ss. 3, 4 — Act is constitutionally valid and does not violate Arts. 19 and 31 — Restrictions imposed held to be reasonable (Nov) 1100B

— *Art. 14* — Executive instructions — Statutory provisions must prevail over executive instructions — See Constitution of India, Article 13 (Jan) 33B

— *Art. 14* — Power to tax lands and buildings — Cannot be used arbitrarily and in a manner inconsistent with fundamental rights — See Kerala Buildings Tax Act (19 of 1961), S. 4 (May) 378

— *Arts. 14, 246, 246, 254 and Sch. 7, List III, item 42* — Power of State Legislature to validate retrospectively acquisitions of land offending Art. 14 — (Bangalore Acquisition of Lands (Validation) Act, (Mys. Act 19 of 1963), S. 1 — Constitutionality — Legislature had power to validate past acquisitions by getting over discriminations caused by two existing procedures — A I R 1962 Mys 218, **Reversed** on basis of subsequent event (Jun) 477B

— *Art. 14* — Bombay Town Planning Act (27 of 1955), Ss. 53 and 67 — Do not infringe Article 14 (Aug) 634C

— *Art. 14* — False statement in verification of Income Tax return — Choice of prosecution either under S. 52, Income-tax Act (1922) or under S. 177, Penal Code is not violative of Article (Aug) 701F

— *Art. 14* — Method of advance purchase contracts by private negotiation in preference to open competition adopted by Government — Action of Government held was violative of Arts. 14 and 19 — AIR 1968 Orissa 189, **Reversed** — See Orissa Kendu

Constitution of India (contd.)

Leaves (Control of Trade) Act (28 of 1961), S. 10 (Nov) 1081A

—*Art. 14*—Legislative discretion in matter of classification—Taxing statute—It cannot be struck down as violative of Article 14 merely because other objects could have been, but are not, taxed by Legislature (Nov) 1094A

—*Art. 14*—S. 3 of Expenditure Tax Act (1957) does not violate Art. 14—*See* Expenditure Tax Act (1957), S. 3 (Nov) 1094B

—*Arts. 14, 19 (1) (f)*—Displaced Persons (Compensation and Rehabilitation) Act (1954), S. 20B—Section whether unconstitutional being ultra vires Arts. 14 and 19 (1) (f) (Quaere) (Dec) 1126A

—*Art. 14*—Indian Police Service (Regulation of Seniority) Rules (1954), R. 3 (3) (b) provisos—Petitioner governed by second proviso—His case cannot have any relationship to the case of officer appointed after the coming into force of Seniority Rules and governed by first proviso—There can be no question of discrimination in consideration of seniority. ILR (1967) Cut 735, Reversed (Dec) 1249C

—*Art. 14*—Domestic enquiry—Discrimination—Strike by workers—Management dismissing three workers for misconduct by incitement, intimidation and riotous and disorderly behaviour considering them as 'very grave in nature'—Held on facts that once a misconduct graver than that of rest of the employees, was found proved against those workers and they having been found to be leaders of crowd, action taken against them could not on any principle be regarded as discriminatory or unequal—*See* Industrial Disputes Act (1947), Sch. 2 item 6 (Dec) 1280D

—*Art. 16 (1)*—Equality of opportunity in matters of employment—Means equality as between members of the same class of employees and not equality between members of separate, independent classes (Mar) 212B

—*Art. 16*—Reservation of appointments for "backward classes"—Determination of backward classes cannot be on basis of community, caste, race or religion—State policy of distribution of posts community-wise is hit by Art. 16 (1) and (4) (Jan) 1

—*Art. 19*—Method of advance purchase contracts by private negotiation in preference to open competition adopted by Government—Action of Government held was violative of Arts. 14 and 19. AIR 1965 Ori 159, Reversed—*See* Orissa Kendu Leaves (Control of Trade) Act (28 of 1961), S. 10 (Nov) 1081A

—*Art. 19*—Punjab Cattle Fairs (Regulation) Act (2 of 1955) is constitutionally

Constitution of India (contd.)

valid and does not violate Art. 19—*See* Constitution of India, Art. 13 (Nov) 1100B

—*Arts. 19, 5*—Municipal Committee is not "citizen" within Art. 19 and is not entitled to claim any of the fundamental rights thereunder (Nov) 1100D

—*Art. 19 (1)*—General Manager issuing direction prohibiting railway employees from holding meeting within railway premises including open grounds forming part of those premises—No violation of Art. 19 (1) (Nov) 966D

—*Arts. 19 (1) (f) and (5) and 31 (2)*—Law for compulsory acquisition of property—Cannot be challenged under Art. 19 (1) (f) and (5)—Bombay Town Planning Act (27 of 1955), Ss. 67 and 71—Fixation of compensation according to scheme of S. 67 cannot be challenged as being unreasonable (Aug) 634F

—*Art. 19 (1) (f)*—S. 20B, Displaced Persons (Compensation and Rehabilitation) Act (1954) whether unconstitutional being ultra vires Arts. 14 and 19 (1) (f) (Quaere)—*See* Constitution of India, Art. 14 (Dec) 1126A

—*Art. 20 (2)*—Principle of issue estoppel—It is different from principle of double jeopardy—*See* Criminal P. C. (1898), S. 403 (Nov) 961A

—*Art. 21*—Loss of Indian citizenship with consequent deportation—Suit instituted prior to commencement of Citizenship Act—By applying S. 9 of the Act and R. 30 of the Rules, there would be no violation of Art. 21—*See* Citizenship Act (1955), S. 9 (Dec) 1231A

—*Art. 22*—*See also* Public Safety—Preventive Detention Act (1950)

—*Art. 22 (5)*—Communication of grounds for detention, should be at earliest opportunity—Grounds numerous—Oral explanation, not enough communication—*See* Public Safety—Preventive Detention Act (4 of 1950), S. 3 (1) (a) (ii) (Jan) 43A

—*Arts. 22 and 32*—Scope—Compliance with provisions of Art. 22 is mandatory—Person detained in jail in violation of Article 22 (1) would be entitled to writ of Habeas Corpus directing his release (Nov) 1014A

—*Arts. 22 (1) and 32*—Non-compliance with Art. 22 (1) inasmuch as no reasons were given for arrest of petitioner—Return also not furnishing any information—Circumstances not such that petitioner must have known the general nature of the alleged offences—Detention held illegal even on the date of return (Nov) 1014C

—*Art. 22 (1), 32*—Arrest of petitioner illegal—Magistrate ordering remand to jail custody—State must show that at the stage of remand, the Magistrate directed detention

Constitution of India (contd.)

in jail custody after applying his mind to all relevant matters (Nov) 1014D

—*Art. 22 (5)*—Scope — Representation by detenu — Government must consider it immediately even if reference to Advisory Board is to be made—Procedural provisions of Art. 22 are mandatory and even if one of them is not complied with, order would be illegal (Nov) 1028

—*Arts. 29 (1) and 30 (1)*—Scope—Protection under Art. 30 (1) cannot be cut down by considerations on which Art. 29 (1) is based (June) 465

—*Art. 30 (1)* — Scope — Protection under Art. 30 (1) cannot be cut down by considerations on which Art. 29 (1) is based — See Constitution of India, Art. 29 (1) (June) 465

—*Art. 31* — Expressions 'acquisition of property' and "subject to the provisions of entry 42 of List III" in entry 36 of List II—Interpretation of—See Constitution of India, Preamble (June) 453B

—*Art. 31*—As amended by Constitution (Fourth Amendment) Act, 1955 — Scope of Cls. (1), (2) and (2A) of Art. 31 — Principles for determining validity of law regarding compulsory acquisition or requisition of property (Aug) 634A

—*Art. 31* — Punjab Cattle Fairs (Regulation) Act (6 of 1968) is constitutionally valid and does not violate Art. 31 — See Constitution of India, Art. 13 (Nov) 1100B

—*Art. 31 (2)* — Constitutional validity of Mysore Act (1 of 1955)—Act cannot be challenged on ground of violation of Art. 31 (2) as it falls within protection of Art. 31-A—See Tenancy Laws—Mysore (Personal and Miscellaneous) Inams Abolition Act (1 of 1955), S. 1 (Jun) 453A

—*Art. 31 (2) and (5) (b) (iii) and Art. 12* — Bombay Town Planning Act (27 of 1955), Ss. 53 and 67—Validity — It is law for acquisition of lands for public purpose — Provisions do not infringe Art. 31 (2) of Constitution and do not fall within exception in Art. 31 (5) (b) (ii) — Principle for determining compensation laid down in Act cannot be challenged on ground that it is not just compensation—AIR 1967 SC 637, **Overruled** and Spl. Civil Appln. No. 837 of 1960, D/- 24-1-1968 (Guj), **Reversed** (Aug) 634B

—*Art. 31 (2)*—Compensation—Meaning of —It need not be in terms of money alone but may be by allotment of other property (Aug) 634E

—*Art. 31 (2)*—Law for compulsory acquisition of property — Cannot be challenged under Art. 19 (1) (f) and (5)—See Constitution of India, Art. 19 (1) (f) and (5) (Aug) 634F

—*Art. 31 (2)*—Specification of principles for determining amount of compensation —

Constitution of India (contd.)

Concept of — Bombay Town Planning Act (27 of 1955), Ss. 67 and 71 lay down such principles (Aug) 634I

—*Art. 31 (2)*—As amended by Constitution (Fourth Amendment) Act, 1955 — Effect — Principle for determination of compensation or adequacy of compensation is not justifiable (Aug) 634K

—*Art. 31 (2)* — Displaced Persons (Compensation and Rehabilitation) Act (1954), S. 20B—Section is ultra vires Art. 31 (2) — L. P. A. No. 37 of 1967, D/- 3-5-1967 (P & H), **Reversed** (Dec) 1126B

—*Art. 31 (5) (a)* — Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 82 — Rules under Rule 35 — Taking over management of property under latter part of S. 65 (1) — Absence of definite time limit under R. 35 for such taking over — Latter part of S. 65 (1) is ultra vires Art. 31A (1) (b). ILR (1966) Guj 1113, **Reversed** — See Constitution of India, Art. 31A (1) (b) (Feb) 168C

—*Art. 31-A* — Constitutional validity of Mysore Act (1 of 1955)—Act cannot be challenged on ground of violation of Art. 31 (2) as it falls within protection of Art. 31-A — See Tenancy Laws — Mysore (Personal and Miscellaneous) Inams Abolition Act (1 of 1955), S. 1 (Jun) 453A

—*Art. 31-A* — Expressions 'acquisition of property' and "subject to the provisions of entry 42 of List III" in entry 36 of List II — Interpretation of—See Constitution of India, Preamble (Jun) 453B

—*Art. 31A (1) (a)* — Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 65 (1) (as amended by S. 35 of Bombay Act 13 of 1956) and S. 61—Taking over property by State under latter part of S. 65 (1)—Does not amount to acquisition or extinguishment or modification of rights under Art. 31A (1) (a) — Latter part of S. 65 (1) cannot claim protection under Art. 31A (1) (a). ILR (1966) Guj 1113, **Reversed** (Feb) 168B

—*Arts. 31-A (1) (b) and 31 (5) (a)* — Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 65 (1) (as amended by Bombay Act 13 of 1956), Ss. 61, 82 — Rules under S. 82, R. 35—Taking over management of property under latter part of S. 65 (1) — Absence of definite time limit under R. 35 for such taking over—Latter part of S. 65 (1) is ultra vires Art. 31-A (1) (b). ILR (1966) Guj 1113, **Reversed** (Feb) 168C

—*Art. 31-B, Ninth Schedule* — Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 65 (1) (as amended by S. 35 of Bombay Act 13 of 1956), S. 44 and Preamble—Inclusion of Bombay Act (67 of 1948) under Ninth Schedule—Protection under Art. 31B is avail-

Constitution of India (contd.)

—*Art. 107* — Introduction and amendment of bill—Distinction pointed out — *See* Constitution of India, Art. 304 (b), Proviso

(June) 504B

—*Art. 109* — Prohibition under Art. 109 relates to introduction of bill in the Legislature—There is no reference at any stage to a bill being moved in a house—*See* Constitution of India, Art. 304 (b), Proviso

(June) 504B

—*Art. 114* — Prohibition under Art. 114 relates to introduction of bill in the Legislature—There is no reference at any stage to a bill being moved in a house — *See* Constitution of India, Art. 304 (b), Proviso

(June) 504B

—*Art. 117* — Prohibition under Art. 117 relates to introduction of bill in the Legislature—There is no reference at any stage to a bill being moved in a house—*See* Constitution of India, Art. 304 (b), Proviso

(June) 504B

—*Art. 133*—Pleadings—Pleadings on certain point vague but all facts necessary for determination of point were before Court — Point was fully argued before High Court without any objection and was also decided by High Court—Objection cannot be taken to consideration of point in appeal by Supreme Court

(Jan) 125C

—*Art. 133* — New plea — Plea not raised before High Court taken before Supreme Court—Supreme Court, while remitting the case back to High Court for deciding the issues that were left open by the High Court directing High Court to consider the new plea

(Mar) 239D

—*Art. 133* — Costs in Supreme Court Appeals — Appeal against judgment of High Court in second appeal arising from suit for declaration and mandatory injunction — Appellant not pressing part of his claim — Appellant granted half costs in Supreme Court — Parties directed to bear their own costs in High Court — *See* Civil P. C. (1908), S. 35

(June) 493B

—*Art. 133* — New plea — Suit for accounts on basis of certain agreements—Concurrent findings of Courts below that agreement was vitiated by fraud — Fiduciary obligation to inform plaintiff of true state of affairs not discharged by defendant — No suggestion made in High Court that plaintiff had means of discovering the truth with ordinary diligence — On appeal under Article 133 held that it was too late for defendant to raise contention under S. 19 of Contract Act

(July) 552A

—*Art. 133 (1) (a)*—Appeal under—Supreme Court does not examine contentions which

Constitution of India (contd.)

have not been examined by appellate Court

(Mar) 227D

—*Art. 136* — Prosecution under S. 120-B, Penal Code and S. 9 (a) of Opium Act—Finding as to conscious possession of opium — No legal error or infirmity — No interference in appeal by special leave

(Jan) 4A

—*Art. 136* — Appointment of Commission of Inquiry to enquire into conduct of ex-ministers — Request to Supreme Court, in special appeal against decision of High Court holding appointment of Inquiry Commission legal, to summon relevant files so that falsity of the charges might be established—Request not acceded to on ground that once it was held by the S. C. that inquiry was legal, the truth or otherwise of the allegations was for the commission's consideration (Apr) 258C

—*Art. 136* — New point — Point not taken in High Court — Point not allowed to be raised by Supreme Court as on facts, it would have caused grave miscarriage of justice

(Apr) 316B

—*Art. 136* — Appeal to Supreme Court — Finding of fact and appreciation of evidence — Practice—Supreme Court should be slow to depart from the conclusion of the trial Judge—*See* Representation of the People Act (1951), S. 116A

(May) 395B

—*Art. 136*—New plea — Plea that acquisition by Improvement Trust is not a public purpose not raised before High Court — Plea cannot be allowed

(June) 477C

—*Art. 136* — Scope — Discretionary jurisdiction of Supreme Court — Exercise of — Modification of certified Standing Orders under Industrial Employment (Standing Orders) Act — Question as to fairness and reasonableness of modifications has been left by Legislature to the authorities empowered under the Act — Supreme Court would not be justified in interfering with conclusions of authorities under the Act unless an important principle of industrial law requiring elucidation is involved — (Industrial Employment (Standing Orders) Act (20 of 1946), Ss. 4, 6 and 10) (July) 513F

—*Art. 136*—Modification of standing order requiring giving of reasons in cases of discharge of workman simpliciter — Modification is fair and reasonable and should not be interfered with under Art. 136 — *See* Industrial Employment (Standing Orders) Act (20 of 1946), S. 4

(July) 513G

—*Art. 136*—Modification of standing order requiring the giving of second show cause notice at stage of imposing punishment of removal cannot be considered as fair or reasonable and should be set aside under Art. 136 — To import such a requirement

Constitution of India (contd.)

from Art. 311 in industrial matters is neither necessary nor proper and would be equating industrial employees with civil servants — *See* Industrial Employment (Standing Orders) Act (20 of 1946), S. 4 (July) 513H

— *Art. 136* — Final conclusion of the question about admissibility of an allowance is one of law — *See* Income-tax Act (1922), S. 10 (2) (xv) and (x) (Aug) 609

— *Art. 136* — Appreciation of evidence — Complaint under S. 41 of Railways Act by a company provided with assisted siding — Question of revision of hauling charges is a question of fact — Cannot be disturbed in appeal under Art. 136 (Aug) 630A

— *Arts. 136, 32 and 226* — Arrest and detention of manager for tax due by Hindu undivided family — Two petitions by Manager under Art. 226 — High Court taking somewhat technical view in declining to allow contention of Manager that he was not so liable and about *res judicata* — Supreme Court in appeal by special leave interfered — (Income-tax Act (1961), S. 222) — (Civil P. C. (1908), S. 11) (Aug) 682B

— *Art. 136* — Indo-Pakistan Western Boundary Dispute — Award of Arbitral Tribunal D/- 19.2.1968 — Award granting certain areas in Rann of Kutch to Pakistan — Writ Petitions seeking to restrain Government of India from implementing award without constitutional amendment or law of Parliament — Supreme Court is not sitting in appeal over award of Tribunal — *See* Constitution of India, Art. 32 (Sep) 783D

— *Art. 136* — Sale of immovable property of company to recover dues — Amount recovered more than what was due — Collector selling afterwards movable property of company at low price — Company not raising contention in that regard before Land Reforms Commissioner and not arguing before High Court — Supreme Court, held, could not investigate reasons for the sale in appeal before it — *See* Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act, 1950 (1 of 1951), S. 286 (Oct) 897B

— *Art. 136* — Accused convicted for murder on basis of dying declaration of victim and evidence of witnesses and sentenced to death — Death sentence confirmed on appeal by High Court — Concurrent findings of fact — Case held not fit for interference by Supreme Court — Sentence of imprisonment for life held appropriate in circumstances of case as intention to murder was lacking (Nov) 951B

— *Art. 136* — Finding of fact — Supreme Court will not go behind it except on grounds such as perversity or unreasonableness of finding (Nov) 992A

Constitution of India (contd.)

— *Arts. 136 and 311 (1)* — Declaratory suit by S. I. Police challenging his removal by D. I. G. — Contentions of breach of Art. 311 (1) on ground that he was appointed by I. G. Police — Finding of Court that he had been appointed by D. I. G. Police — That being a finding of fact is binding on Supreme Court in appeal under Art. 136 : (Nov) 1020B

— *Art. 136* — Concurrent finding of fact is binding on Supreme Court (Nov) 1076A

— *Art. 136* — New plea — Point not raised before High Court cannot be allowed to be raised before Supreme Court (Dec) 1126C

— *Art. 136* — Finding of fact — Departmental enquiry — Dismissal of workman for misconduct by incitement and disorderly behaviour — Finding neither perverse nor such as no reasonable body of persons could come to on evidence on record — Labour Court, on evidence on record holding that the workers' association had failed to prove its case that the management had agreed not to take action against any workman in connection with strike and that in fact the management did not impose any penalty against any workman for joining strike — Finding purely one of fact — Cogent reasons given by Labour Court — No interference (Dec) 1280C

— *Art. 136* — Concurrent findings of fact — Eviction suit — Concurrent findings of lower Courts that premises were taken for residential-cum-business purposes — Finding being one of fact must be accepted as final — (Houses and Rents — Delhi Rent Control Act (59 of 1958), S. 14 (1) (h)) (Dec) 1288C

— *Art. 136* — New point before Supreme Court — Question of limitation — Plea that application under S. 33C (2), Industrial Disputes Act was barred by limitation — Question raises a plea of want of jurisdiction — Question being a pure question of law which could be decided on the basis of facts on record in the case, the Supreme Court permitted it to be raised before it even though it was not put forward either in the High Court or before the Labour Court (Dec) 1335A

— *Art. 136* — Relief against forfeiture of tenancy for non-payment of rent — Discretion used in favour of tenants by lower appellate Courts — Ordinarily Supreme Court will not interfere with the order — *See* Transfer of Property Act (1882), S. 114 (Dec) 1349B

— *Art. 136* — Concurrent findings of Courts below that the will was executed when the testator was in sound and disposing state of mind — In appeal with special leave Supreme Court does not ordinarily allow question about due execution of will to be canvassed

Constitution of India (contd.)

unless there are exceptional circumstances—Held, that there was no exceptional circumstances which would justify departure from the rule (Dec) 1355A

—*Art. 153*—Governor can continue to hold office beyond period of five years till successor enters office — *See* Constitution of India, Art. 156 (3) (Apr) 258A

—*Arts. 156 (3), 153, 160* — Governor can continue to hold office beyond period of five years till successor enters office (Apr) 258A

—*Art. 160*—Governor can continue to hold office beyond period of five years till successor enters office — *See* Constitution of India, Art. 156 (3) (Apr) 258A

—*Art. 173 (a)* — Representation of the People Act (1951), S. 36 (2) (a)—Oath or affirmation must be before the date of scrutiny — AIR 1968 Mys 18, **Reversed** (Nov) 1034B

—*Art. 173 (a)*—Notification issued by Election Commission — Affirmation must be made before Returning Officer of that constituency for which candidate is seeking election to Legislature of State whether it be an Assembly Constituency or a Council Constituency—AIR 1968 Mys 18, **Reversed** on another point (Nov) 1034C

—*Art. 173 (a)* — Affirmation made in respect of one constituency—Candidate nominated from more than one constituency — No necessity of repeated affirmation. AIR 1968 Mys 18, **Reversed** on another point (Nov) 1034D

—*Art. 174 (2)* — Speaker adjourning Legislature under R. 105 of Rules of Procedure and Conduct of Business in Punjab Legislative Assembly for two months beyond March 31—Impossibility of getting Finance Bill passed before March 31—Governor can prorogue Assembly and get rid of adjournment — Article 174 (2) does not put any restriction on powers of Governor — His action cannot be questioned on grounds of mala fide, when legislature was not in session (Oct) 903A

—*Art. 174 (2)*—Prorogation becomes effective from date it is notified in Official Gazette of State — Action of Secretary in sending copies to members is ministerial act — Rule 7 of Rules of Procedure and Conduct of Business does not add a clause to Art 174 (2) (Oct) 903B

—*Art. 174 (2)* — Courts are bound to take judicial notice of prorogation and presume the regularity of these actions which must be interpreted as far as possible so that the thing done may be valid rather than invalid — *See* Evidence Act (1872), S. 57 (Oct) 903C

—*Art. 174 (2)* — Punjab Ordinance (1 of

Constitution of India (contd.)

1968) promulgated after prorogation of Legislature — Ordinance is valid — *See* Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), Preamble (Oct) 903D

—*Art. 180 (2)*—Article 199 (4) is directory — Speaker not present when money bills were passed — Under Art. 180 (2), Deputy Speaker acts as Speaker — *See* Constitution of India, Art. 199 (4) (Oct) 903I

—*Art. 189 (4)* — Section is not ultra vires — Article 209 gives full authority to S. 3 — No inconsistency between the section and R. 105 of Rules of Procedure and Conduct Business — Article 189 (4) cannot be abrogated — ILR (1968) 2 Punj. & Har. 42 (FB), **Reversed** — *See* Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), S. 3 (Oct) 903F

—*Art. 191* — Contract by acceptance of tender by State Government not complying with Art. 299 (1) of Constitution — Contract treated as binding subsisting contract by parties—Person entering into contract incurs disqualification for membership to State Legislature—*See* Representation of the People Act (1951), S. 9A (Apr) 302B

—*Art. 191 (1) (a)*—Office of profit—Allowances paid under Rr. 3 to 7 of Punjab Panchayat Samities and Zilla Parishads Non-official Members (Payment of Allowances) Rules, 1965, does not convert the office of Chairman Panchayat Samities into an office of profit — Such a person is not disqualified from being elected to the Legislative Assembly (Apr) 262

—*Art. 191 (1) (a)* — Workmen transferred from Government undertaking to a company ceases to be Government servant — Not disqualified to be a candidate for Assembly — *See* Representation of the People Act (1951), S. 100 (1) (a) (Sep) 744A

—*Art. 191 (1) (a)*—Post of Superintendent, Safety Engineering Department in an undertaking transferred from Government to a company is not office of profit under Government—Disqualification — Art. 191 (1) (a), not applicable to person holding such post — *See* Representation of the People Act (1951), S. 100 (1) (a) (Sep) 744B

—*Art. 198* — Prohibition under Art. 193 relates to introduction Bill in the Legislature — There is no reference at any stage to a bill being moved in a house — *See* Constitution of India, Art. 304 (b), Proviso (June) 504B

—*Arts. 199 (4), 180 (2), 212 (1)*—Article 199 (4) is directory — Speaker not present when Money Bills were passed — Under Art. 180

Constitution of India (contd.)

(2), Deputy Speaker acts as Speaker—Though Art. 199 (4) mentions only the Speaker of the Legislative Assembly, in his absence, Deputy Speaker who acts as Speaker can certify Money Bills effectively under Art. 199 (4). — Under Art. 212 (1) validity of the Procedure cannot be questioned on grounds of irregularity (Oct) 903I

—*Art. 207* — Prohibition under Art. 207 relates to introduction Bill in the Legislature — There is no reference at any stage to a bill being moved in a house — See Constitution of India, Art. 304 (b), Proviso (June) 504B

—*Art. 208* — Speaker adjourning Legislature under R. 105 of Procedure and Conduct of Business in Punjab Legislative Assembly for two months beyond March 31 — Impossibility of getting Finance Bill passed before March 31—Governor can prorogue Assembly and get rid of adjournment — Article 174 (2) does not put any restriction on powers of Governor — His action cannot be questioned on grounds of mala fide, when legislature was not in session — See Constitution of India, Art. 174 (2) (Oct) 903A

—*Art. 208* — Prorogation becomes effective from date it is notified in Official Gazette of State — Action of Secretary in sending copies to members is ministerial act — Rule 7 of Rules of Procedure and Conduct of Business does not add a clause to Art. 174 (2) — See Constitution of India, Art. 174 (2) (Oct) 903B

—*Art. 208* — No inconsistency between S. 3 of Punjab Ordinance (1 of 1968) and R. 105 of Rules of Procedure and Conduct of Business — ILR (1968) 2 Punj & Har 42 (FB), **Reversed** — See Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), S. 3 (Oct) 903F

—*Art. 208* — Ruling of Speaker of Legislature, adjourning the House in face of S. 3 of Punjab Ordinance 1 of 1968, without the mandate from majority, under wrong impression that the Ordinance was invalid, can be questioned — Adjournment is null and void — Speaker's ruling cannot be treated as final under R. 112 of Rules of Procedure and Conduct of Business of Punjab Legislative Assembly. ILR (1968) 2 Punj & Har 42 (FB), **Reversed** — See Constitution of India, Art. 226 (Oct) 903G

—*Art. 209*—Punjab Ordinance (1 of 1968), promulgated after prorogation of Legislature — Ordinance is valid — See Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), Preamble (Oct) 903D

Constitution of India (contd.)

—*Art. 209*—Object of—Legislature adjourned by Speaker beyond 31st March — Likelihood of financial business being languished and constitutional machinery being wrecked, — Governor proroguing Legislature and promulgating Punjab Ordinance, 1 of 1968, to enable Legislature to transact financial business — Action of Governor cannot be questioned on grounds of error of judgment or mala fides. ILR (1968) 2 Punj & Har 42 (FB), **Reversed** (Oct) 903E.

—*Art. 209* — Section 3 of Punjab Ordinance (1 of 1968) is not ultra vires—Art. 209 gives full authority to S. 3. ILR (1968) 2 Punj & Har 42 (FB), **Reversed** — See Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), S. 3 (Oct) 903F

—*Art. 212 (1)* — Though Art. 199 (4) mentions only the Speaker of the Legislative Assembly, in his absence, Deputy Speaker who acts as speaker can certify Money Bills effectively under Art. 199 (4) — Under Art. 212 (1) validity of the Procedure cannot be questioned on grounds of irregularity — See Constitution of India, Art. 199 (4) (Oct) 903I

—*Art. 213 (2)* — Punjab Ordinance (1 of 1968) promulgated after prorogation of Legislature—Ordinance is valid—See Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), Preamble (Oct) 903D

—*Art. 226* — Writ application against detention order under Preventive Detention Act (1950) — Order defective and invalid — Courts can insist on refusal to countenance slipshod exercise of power — See Public Safety — Preventive Detention Act (4 of 1950), S. 3 (1) (a) (ii) (Jan) 43A

—*Art. 226* — Certiorari — Writ of—Claim for refund of tax made within time — Writ can include direction for refund — See Civil P. C. (1908), S. 9 (Jan) 78

—*Art. 226* — Delay — Notification under S. 4 (1) of Coal Bearing Areas (Acquisition and Development) Act, 1957—Writ petition challenging validity of notification filed within six months of date of notification — Held delay was not sufficient to refuse relief prayed for (Jan) 125A

—*Art. 226* — Writ petition challenging notification under S. 4 of Act 20 of 1957 before notification under S. 7 — Not premature — See Coal Bearing Areas (Acquisition and Development) Act (20 of 1954), S. 4 (Jan) 125B

—*Art. 226*—Natural justice — Misconduct by student in examination—Inquiry into—Show cause notice to student after inquiry—

Constitution of India (contd.)

—Report of inquiry not given to student—Not a breach of rule of natural justice—*See* Education—Kerala University Act (14 of 1957), Statutes under—Statute I, Chap. VII, Cl. 3 (xxvii) (Mar) 193B

—*Art. 226*—Writ petition against R. T. A.'s order—R. T. A. directed to maintain status quo during pendency of writ—Compromise between parties—Orders of R. T. A. in terms of compromise—Acquiescence in the order of R. T. A. — Writ of certiorari will not be granted—Evidence Act (1872), S. 115 (Apr) 329E

—*Art. 226*—Mandamus — Inter-State sales — Order of assessment of Sales Tax for entire assessment Year 1955-56—S. 3 of Act of 1956 validating levy of sales tax on inter-State sales till September 6, 1955 — Writ of mandamus can be issued directing State not to realise sales tax except with regard to transactions of sale between the period April, 1955 and September 6, 1955, both days inclusive — I L R (1965) 15 Raj 603, *Reversed* — *See* Sales Tax — Sales Tax Laws Validation Act (1956), S. 2 (May) 343B

—*Art. 226*—Interference in discretionary matter—Absence of pleading—Writ petition challenging that notice under S. 226 (3), I. T. Act was issued not in proper exercise of discretion — Writ petition merely stating that order under S. 220 (6) in treating the assessee in default was passed in exercise of discretion in arbitrary manner—In absence of specific particulars in writ petition to support allegation it is not open to High Court to go into that question—A I R 1968 Mys 258, *Reversed* (May) 403C

—*Art. 226* — Existence of alternative remedy is no bar to writ petition, where it is alleged that the tribunal acted under provision of law which was ultra vires or where it is alleged that it acted in violation of principles of natural justice—S. A. No. 322 of 1964, D/- 27-3-1964 (All), *Reversed* (July) 556

—*Arts. 226 and 32* — Arrest and detention of manager for tax due by Hindu undivided family — Two petitions by manager under *Art. 226*—High Court taking somewhat technical view in declining to allow contention of manager that he was not so liable and about res judicata—Supreme Court in appeal by special leave, interfered — *See* Constitution of India, Art. 136 (Aug) 682B

—*Art. 226*—Ruling of Speaker of Legislature, adjourning the House in face of S. 3 of Punjab Ordinance I of 1968, without the mandate from majority, under wrong impression that the Ordinance was invalid, can be questioned — Adjournment is null and

Constitution of India (contd.)

void—Speaker's ruling cannot be treated as final under R. 112 — I L R (1968) 2 Punj & Har 42 (FB), *Reversed* (Oct) 903G

—*Art. 226*—Departmental enquiry — Conclusion of authority supported by evidence and one which could be reached by reasonable man — No interference in certiorari jurisdiction—A I R 1963 Punj 336, *Reversed* — *See* Constitution of India, Art. 311 (Nov) 966A

—*Arts. 226, 311*—Departmental enquiry—Inferences of fact drawn by Disciplinary Authority from material before it — Cannot be properly objected to (Nov) 966B

—*Art. 226*—Domestic tribunal—Technical rules of evidence do not apply—Substantive rules which form part of principles of natural justice however apply—*See* Evidence Act (1872), S. 1 (Nov) 983C

—*Art. 226* — Futile writ — Contracts by Government for sale of Kendu leaves — During pendency of proceedings entire year for which contracts were given expired—Parties to those contracts not before Court — Contracts, held could not be declared unlawful (Nov) 1081B

—*Art. 226* — Effect of decision in A I R 1968 Punj 391 is to make the Punjab Cattle Fairs (Regulation) Act (6 of 1968) non-existent in law — Act amended in view of the decision — Decision does not operate as res judicata in favour of person who was petitioner in the case—A I R 1968 Punj 391, *Overruled*—*See* Constitution of India, Art. 13 (Nov) 1100A

—*Art. 226* — Mandamus, writ of — Agreement to refer disputes in pending suits to arbitration of sole judge extra cursum curiae — Under terms of agreement judge to act in dual capacity as arbitrator and a judge—Order passed in pursuance of agreement in partition suit — On facts order held to be judgment and preliminary decree and not award — Registrar of High Court bound to file it on record under rules of High Court—No mandamus can be issued against Registrar to take it off the record so long as the order is not vacated by appropriate remedy — *See* Arbitration Act (1940), S. 2 (a) and (b) (Dec) 1133

—*Art. 226* — Mandamus — There must be legal right to performance of legal duty—Writ cannot issue to company which is not statutory or having any public duty or responsibility imposed by statute to restrain company from enforcing agreement arrived at between Union and Company. I L R (1967) Andh Pra 361, *Affirmed* — Court cannot also grant declaration about illegality of agreement in favour of petitioners—I L R (1967) Andh Pra 361, *Reversed* (Dec) 1306A

Constitution of India (contd.)

—*Art. 245*—Power of State Legislature to validate retrospectively acquisitions of land offending Art. 14—Constitutionality—Legislature had power to validate past acquisitions by getting over discriminations caused by two existing procedures — A I R 1962 Mys 218, **Reversed** on basis of subsequent event—*See* Constitution of India, Art. 14

(June) 477B

—*Art. 245*—Punjab Ordinance (1 of 1968) promulgated after prorogation of Legislature—Ordinance is valid—*See* Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), Preamble

(Oct) 903D

—*Art. 246, Sch. 7, List I, Entry 86 and List II, Entry 49*—Levy of tax on capital value of non-agricultural lands and buildings—Parliament can legislate therefor under List I, Entry 86—Imposition of wealth-tax on non-agricultural lands and buildings under Wealth Tax Act (1957) is constitutional—Not conflicting with Entry 49 of List II—Observations made in A I R 1960 All 136 (FB) held were obiter and did not correctly interpret Entry 86 of List I

(Jan) 59B

—*Art. 246*—Bombay Legislature is competent to provide for surcharge—*See* Electricity Act (1910), S. 3 (f)

(Mar) 227C

—*Art. 246*—Expressions 'acquisition of property' and "subject to the provisions of Entry 42 of List III" in Entry 36 of List II—Interpretation of — *See* Constitution of India, Preamble

(June) 453B

—*Art. 246*—Power of State Legislature to validate retrospectively acquisitions of land offending Art. 14—Constitutionality—Legislature had power to validate past acquisitions by getting over discriminations caused by two existing procedures — A I R 1962 Mys 218, **Reversed** on basis of subsequent event—*See* Constitution of India, Art. 14

(June) 477B

—*Art. 246*—Punjab Ordinance (1 of 1968) promulgated after prorogation of Legislature—Ordinance is valid — *See* Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), Preamble

(Oct) 903D

—*Art. 246*—Statute cannot be declared invalid on ground that it violates the due process of law or is vague — Punjab State Legislature is competent to enact Punjab Cattle Fairs (Regulation) Act (6 of 1968) by virtue of Entry 28 of List II of 7th Schedule — A I R 1963 Punj 391, **Overruled**—*See* Constitution of India, Art. 13

(Nov) 1100A

—*Art. 253*—Boundary dispute between two independent States — Treaty and arbitration award of International Tribunal—

1969 (S.C.) Indexes 3.

Constitution of India (contd.)

Indian territory cannot be ceded without amendment of the Constitution—Indo-Pakistan Western Boundary Case Tribunal award regarding Rann of Kutch—Held could be implemented by Government of India without any constitutional amendment—*See* Constitution of India, Art. 1 (3) (Sep) 783C

—*Art. 254*—Bombay Legislature is competent to provide for levy of surcharge—*See* Electricity Act (1910), S. 3 (f) (Mar) 227C

—*Art. 254*—Power of State Legislature to validate retrospectively acquisitions of land offending Art. 14—Constitutionality—Legislature had power to validate past acquisitions by getting over discriminations caused by two existing procedures—AIR 1962 Mys 218, **Reversed** on basis of subsequent event — *See* Constitution of India, Art. 14

(June) 477B

—*Art. 264 (as it stood, before the Constitution VIIIth Amendment Act, 1956)*—Word "State" as used in Art. 286 included a Part C State also — *See* Constitution of India, Art. 286

(July) 549

—*Art. 265*—S. 4 read with Schedule of Kerala Buildings Tax Act (19 of 1961) is ultra vires — *See* Kerala Buildings Tax Act (19 of 1961), S. 4, Sch.

(May) 378

—*Arts. 286 and 264 (as they stood before the Constitution VIIIth Amendment Act, 1956)*—Word "State" as used in Art. 286 included a Part C State also

(July) 549

—*Art. 290*—Escheat — Right of Government

(Oct) 843C

—*Art. 299*—Contract by acceptance of tender by State Government not complying with S. 299 (1) of Constitution — Contract treated as binding subsisting contract by parties — Person entering into contract incurs disqualification for membership to State Legislature — *See* Representation of the People Act (1951), S. 9A (Apr) 302B

—*Art. 299*—Representation of the People Act (1951), S. 9A—Contract of construction of road and building with State Government — The fact that contract was signed by Executive Engineers and not by Secretary to the Government as required by Art. 299 of Constitution of India does not save bar of election law to candidature—*See* Representation of the People Act (1951), S. 9A

(Jun) 447B

—*Art. 300*—Suit against State for damages — Railways Act (1890), S. 72 (before its amendment in 1961) — Claim against State owned Railway — It does not behove the State to contest a good claim on the off-chance of success on some unsubstantial technical plea

(Jan) 23C

—*Arts. 301, 302 and 303 (1)*—Scope—Freedom of trade, commerce and intercourse—

Constitution of India (contd.)

Taxing law—Hampering flow of trade—Sales Tax—When has the effect of—Central Sales Tax Act (1956), S. 8 (2), (2-A) and (5)—Not ultra vires Arts. 301 and 303 (1)—Writ Petn. No. 836 of 1966, D/- 7-4-1967 (Mad), **Reversed** (Feb) 147

—*Art. 302*—Central Sales Tax Act (1956), S. 8 (2), (2-A) and (5)—Provisions saved by Art. 302—Writ Petn. No. 836 of 1966, D/- 7-4-1967 (Mad), **Reversed**—*See* Constitution of India, Art. 301 (Feb) 147

—*Art. 303(1)*—Central Sales Tax Act (1956), S. 8 (2), (2-A) and (5)—Not ultra vires Art. 303 (1)—Writ Petn. No. 836 of 1966, D/- 7-4-1967 (Mad), **Reversed**—*See* Constitution of India, Art. 301 (Feb) 147

—*Arts. 304(b), Proviso 109, 114, 117, 198 and 207*—Travancore-Cochin Public Safety Measures Act (5 of 1950), S. 3—Conferment of power on State Government to prohibit forward contracts—S. 3 (2) (f) permits imposition of restrictions on freedom of trade or commerce within Art. 304 (b)—Rules of Procedure and Conduct of Business in Lok Sabha (as framed under Art. 118 (2) of Constitution), Rr. 65 (2), 81, 300—Requirement of previous sanction of President under Proviso to Art. 304—Necessity of—Original introduction of Bill prior to coming into force of Constitution, valid—Absence of amendment—S. 3 is not void for non-compliance with proviso to Art. 304—AIR 1964 Ker 92, **Reversed**; AIR 1955 Trav-Co 82 (FB), AIR 1954 Trav-Co 34 and AIR 1954 Trav-Co 257, **Overruled** (June) 504B

—*Art. 309, Proviso*—Words 'any rules so made shall have effect, subject to provisions of any such Act'—Power to give retrospective operation to rules—Railway establishment Code, R. 157—Railway Board acting under R. 157 can make rule having retrospective effect—AIR 1963 Mys 265 and AIR 1965 Mys 25, **Overruled** (Jan) 118A

—*Arts. 309 and 311*—Government servant—Resignation—Acceptance by Government—Withdrawal of resignation not permissible even before communication of order of acceptance (Mar) 180

—*Art. 311*—Domestic inquiry into misconduct of employee during pendency of a parallel inquiry before Court in the absence of stay order—No contempt—Broad observation of Narayan J. in AIR 1949 Pat 222 (FB) to the contrary, **Overruled**—*See* Contempt of Courts Act (1952), S. 1 (Jan) 30

—*Art. 311*—Government servant—Resignation—Acceptance by Government—Withdrawal of resignation not permissible even before communication of order of acceptance—*See* Constitution of India, Art. 309 (Mar) 180

Constitution of India (contd.)

—*Art. 311*—Disciplinary proceedings under—Requirements of principles of natural justice—Second inquiry after show cause notice or giving of copy of report—Not necessary in every case (Mar) 198C

—*Art. 311*—Modification of standing order requiring the giving of second show cause notice at stage of imposing punishment of removal cannot be considered as fair or reasonable and should be set aside under Art. 136—To import such a requirement from Art. 311 in industrial matters is neither necessary nor proper and would be equating industrial employees with civil servants—*See* Industrial Employment (Standing Orders) Act (20 of 1946), S. 4 (July) 513H

—*Arts. 311, 226*—Departmental enquiry—Disciplinary authority is not bound by conclusion reached by enquiry committee—Conclusion of Disciplinary Authority supported by evidence and one which could have been reached by reasonable man—High Court in certiorari jurisdiction would not interfere with that conclusion—AIR 1963 Punj 336, **Reversed** (Nov) 966A

—*Art. 311*—Departmental enquiry—Inferences of fact—Cannot be objected to—*See* Constitution of India, Art. 226 (Nov) 966B

—*Art. 311*—Enquiry under, against railway employee—Order of removal based on two charges—One of charges found to be unsustainable—If order of removal can lawfully be passed on sustainable charge, it is not for the Court to consider whether that ground alone would have weighed with the authority in imposing punishment in question—Order can be sustained—AIR 1963 Punj 336, **Reversed** (Nov) 966C

—*Art. 311 (1)*—Declaratory suit by S. I. Police challenging his removal by D. I. G.—Contention of breach of Art. 311 (1) on ground that he was appointed by I. G. Police—Finding of Court that he had been appointed by D. I. G. Police—That being a finding of fact is binding on Supreme Court in appeal under Art. 136—*See* Constitution of India, Art. 136 (Nov) 1020B

—*Art. 311 (2)*—Police Act (1861), S. 7—Copy of enquiry report given to delinquent Police Officer along with show cause notice indicating that his past record was taken into consideration—Delinquent cannot say that he was not given opportunity to offer explanation on question of past record—S. A. No. 1271 of 1962, D/- 2-3-1965 (All), **Reversed** (Nov) 1020A

—*Art. 311 (2)*—Domestic enquiry—Report by Enquiry Officer regarding findings and recommending mode of punishment—Supply of report along with show cause notice to

Constitution of India (contd.)

delinquent—Part of report relating to punishment cannot be withheld (Dec) 1294

—*Art. 311(2)*—Non-supply of copy of enquiry report amounts to denial of reasonable opportunity (Dec) 1302A

—*Art. 341*—In the absence of a public notification issued by the President a person properly described as mochi in Punjab does not fall within the caste of Chamars as included in Constitution (Scheduled Castes) Order, 1950 and Constitution (Scheduled Castes) (Union Territories) Order, 1951 (as amended in 1966)—Court cannot scrutinise the Gazeteers and glossaries for this purpose (July) 597

—*Sch. 7, List 1, Entry 17*—Parliament had legislative competence to enact Citizenship Act (1955) under Entry 17 of List 1—*See* Citizenship Act (1955), S. 9 (Dec) 1234A

—*Sch. 7, List 1, Entry 33*—Mysore Act (1 of 1955) is not beyond legislative competence of Mysore Legislature—*See* Constitution of India, Pre. (June) 453B

—*Sch. 7, List 1, Entry 86*—Levy of tax on capital value of non-agricultural lands and buildings—Parliament can legislate therefore under List 1 Entry 86—Imposition of Wealth-tax on non-agricultural lands and buildings under Wealth Tax Act (1957) is constitutional—Not conflicting with entry 49 of List II—Observations made in A I R 1960 All 136 held were obiter and did not correctly interpret Entry 86 of List 1—*See* Constitution of India, Art. 246 (Jan) 59B

—*Sch. 7 List 2, Entry 28*—Statute cannot be declared invalid on ground that it violates the due process of law or is vague—Punjab State Legislature is competent to enact Punjab Cattle Fairs (Regulation) Act (6 of 1968) by virtue of entry 28 of List 2 of 7th Schedule. A I R 1968 Punj 391, **Overruled**—*See* Constitution of India, Art. 13 (Nov) 1100A

—*Sch. 7 List 2, Entry 36*—Mysore Act (1 of 1955) is not beyond legislative competence of Mysore Legislature—*See* Constitution of India, Pre. (June) 453B

—*Sch. 7, List 2, Entry 49*—Levy of tax on capital value of non-agricultural lands and buildings—Parliament can legislate therefore under List 1, Entry 86—Imposition of wealth-tax on non-agricultural lands and buildings under Wealth Tax Act (1957) is constitutional—Not conflicting with entry 49 of List 2—Observations made in A I R 1960 All 136 held were obiter and did not correctly interpret Entry 86 of List 1—*See* Constitution of India, Art. 246 (Jan) 59B

—*Sch. 7, List 2, Entry 49*—Power to tax lands and buildings—Cannot be used arbi-

Constitution of India (contd.)
trarily and in a manner inconsistent with fundamental rights—*See* Kerala Buildings Tax Act (19 of 1961), S. 4, Sch. (May) 378

—*Sch. 7, List 3, Entry 38*—Competency of Legislature to provide for surcharge—No conflict in Cl. 12 of Schedule in Electricity Act (1910) and Ss. 3 and 4 of Bombay Electricity (Surcharge) Act (19 of 1946) (as extended to Ajmer Merwara by Ajmer Merwara Extension of Laws Act, 1947)—Notification issued by Chief Commissioner of Ajmer levying surcharge is not ultra vires the provisions of Electricity Act—F. A. No. 67 of 1956, D/- 22-9-1964 (Raj), **Reversed**—*See* Electricity Act (1910), S. 3 (f) (Mar) 227C

—*Sch. 7, List 3, Entry 42*—Mysore Act (1 of 1955) is not beyond legislative competence of Mysore Legislature—*See* Constitution of India, Pre. (June) 453B

—*Sch. 7, List 3, Entry 42* (as amended by Constitution (Seventh Amendment) Act, 1956)—Effect of—Power of acquisition and requisitioning of property falls in concurrent list (Aug) 634J

—*Sch. 7, List 3, Item 42*—Power of State Legislature to validate retrospectively acquisitions of land offending Art. 14—Constitutionality—Legislature had power to validate past acquisitions by getting over discriminations caused by two existing procedures. A I R 1962 Mys 218, **Reversed** on basis of subsequent event—*See* Constitution of India, Art. 14 (June) 477B

Constitution of Jammu and Kashmir (1956), S. 51 (a)—J. & K. Representation of the People Act (4 of 1957), S. 47 (2) (a)—Filing of nomination paper—Failure to subscribe oath or affirmation before authorized officer—Nomination paper is liable to be rejected (Dec) 1111

Constitution (Scheduled Castes) Order (1950), Para 3—Professing Hindu religion—Meaning of—Appellant who was converted to Christianity openly marrying Hindu wife—Marriage, though not celebrated according to strict Hindu rites prevalent among Adi Dravidas, not being also in Christian form—Subsequently in 1961 appellant getting his service cards corrected so as to show him as an Adi Dravida Hindu instead of Christian—Appellant contesting general elections in 1962 as member of Adi Dravida Hindu Caste—Appellant also giving out caste of his children as Adi Dravida Hindus—Held, these various steps taken by appellant clearly amounted to public declaration of his professing Hindu faith (Jan) 101B

—*Item 9, Part X*—In the absence of a public notification issued by the President a

Constitution (Scheduled Castes) Order (contd.)
 person properly described as mochi in Punjab does not fall within the caste of Chamars as included in the Order — *See* Constitution of India, Art. 341 (July) 597

Constitution (Scheduled Castes Union Territories) Order, 1951 — In the absence of a public notification issued by the President a person properly described as mochi in Punjab does not fall within the caste of Chamars as included in the Order — *See* Constitution of India, Art. 341 (July) 597

Contempt of Courts Act (32 of 1952), S. 1 — Interference with due course of justice in pending proceedings — Domestic inquiry into misconduct of employee during pendency of parallel inquiry before Court in the absence of stay order — No contempt — Criminal Misc. Contempt Case No. 7 of 1965, D/- 3-8-1965 (Allahabad), **Reversed** — Broad observation of Narayan J. in A I R 1949 Pat 222 (FB), to the contrary, **Overruled** (Jan) 30

— *S. 1* — Delay in transmission of order of Sessions Court staying payment of sale proceeds to accused — Payment made — Authorities responsible for transmission should not be proceeded against for contempt of Court — Cri. Misc. Case No. 28 of 1964, D/- 16-6-1964 (Cal), **Reversed** (Mar) 189B

— *S. 1* — Nature of contempt proceedings — Duty of Court — Delay in transmission of orders of superior Court to subordinate Court — Contempt proceedings are not proper — *See* Contempt of Courts Act (1952), S. 3 (Mar) 189D

— *S. 1* — Appointment of Commission of Inquiry under Commissions of Inquiry Act, during pendency of civil litigation, when amounts to contempt of Court — Enquiry cannot be said to be judicial — Commission cannot commit contempt, being Statutory Commission (Mar) 215C

— *S. 1* — Writ petitions by private operators against order of R. T. A. granting permit to State Road Transport Corporation — Enforcement of order stayed and R. T. A. directed to maintain status quo pending writ petitions — R. T. A. passing order on compromise between parties but keeping it pending till petitions were withdrawn — Order of R. T. O. held not in violation of High Court order — *See* Motor Vehicles Act (1939), S. 48 (Apr) 329D

— *S. 3* — A parallel enquiry on a matter pending before a Court — Enquiry does not necessarily amount to contempt of court — Broad observations by Narayan, J., in A I R 1949 Pat 222 (FB), **Overruled** (Jan) 30B

— *Ss. 3, 1* — Nature of contempt proceedings — Duty of Court — Delay in transmission of orders of superior court to subordinate

Contempt of Courts Act (contd.)
 Court — Contempt proceedings are not proper (Mar) 189D

— *S. 4* — Contemner must offer an apology and that too clearly and at earliest opportunity — Person offering belated apology runs the risk that it may not be accepted, for such an apology hardly shows contrition which is the essence of purging of contempt — However, a man may have the courage of his convictions and may stake his all on proving that he is not in contempt and may take the risk. (Here the persons ran gauntlet of such risk and fairly succeeded) (Mar) 189C

Contract Act (9 of 1872), S. 2 — Coal consigned to Company by Colliery on orders and sanction of Deputy Coal Commissioner (Distribution) under Colliery Control Order, 1945 which was then in force — Sanction and order at instance of Company — Wagons supplied by Railway on order by Coal Commissioner — Refusal of Company to take delivery — Railway selling coal and suing company for demurrage — Normally consignee is liable — On facts also held that Colliery acted as agent of company and was responsible for payment of freight and demurrage charges — *See* Railways Act (1890), S. 56 (Mar) 193A

— *S. 2 (b)* — Offer — Acceptance cannot be by serving copy of plaint in a suit for specific performance through Court — Reg. App. No. 231 of 1960, D/- 19-6-1963 (Mys), **Reversed** — *See* Contract Act (1872), S. 7 (Dec) 1157

— *Ss. 7 and 2 (b)* — Offer — Acceptance cannot be by serving copy of plaint in a suit for specific performance through Court. Reg. Appeal No. 231 of 1960, D/- 19-6-1963 (Mys), **Reversed** (Dec) 1157

— *S. 10* — Intention of the parties gathered from the contract as a whole and the surrounding circumstances is decisive — *See* Forward Contract (Regulation) Act (1952), S. 2 (f) (Jan) 9B

— *S. 19* — Suit for accounts — Agreement found to be vitiated by fraud — Appeal under Art. 133 — Contention under S. 19 of Contract Act was not allowed to be raised — *See* Constitution of India, Art. 133 (July) 552A

— *S. 23* — Suit for damages for breach of contracts in respect of goods purchased by plaintiff on behalf of defendant — Defendant refusing to take delivery on due dates — Contracts entered into in February, 1952 — Section 3, Trav. Co. Public Safety Measures Act (5 of 1950) found to be valid — Relevant Prohibition Order prohibiting forward contracts continued to remain in force

Contract Act (contd.)

under Proviso to S. 17 (4) of Essential Supplies (Temporary Powers) Act (1946) — Contracts held to be against law — AIR 1964 Ker 92, **Reversed** — See Contract Act (1872), S. 73 (June) 504A

—S. 50 — Subscriber to Railway Provident Fund electing to be governed by Provident Fund Sterling Accounts Rules — Subscriber requesting payment in sterling and by Bank draft in a bank in England — Railway Administration drawing cheques in favour of Reserve Bank of India with instructions to convert it into sterling and then to transmit amount to subscriber's banker in England — Obligation of railway administration could not be said to have been discharged till directions of subscriber regarding transmission of fund were complied with, so long as money remained under control of Railway Administration — AIR 1962 Cal 169, **Reversed** — See Provident Funds Act (1925), S. 3 (Sep) 762

—S. 55 — Lease of land — Stipulations as to time giving an option for renewal are essence of the contract — Delay on part of lessee to apply for renewal due to oversight — Lessee not entitled to renewal (May) 405

—S. 56 — Doctrine of frustration of contract — Comes within purview of S. 56 — But provisions of section cannot apply to case of 'self-induced frustration' — On facts held contract to sale imported goods became impossible or unlawful after coming into force of Imports (Control) Order, 1955, and so void under S. 56 of Contract Act and this was not a case of self induced frustration: Appeal No. 367 of 1958, D/- 16-3-1962 (Mad), **Reversed** (Jan) 110B

—Ss. 73, 23 — Trav. Co. Public Safety Measures Act (5 of 1950), Ss. 73 (1), 3 — Suit for damages for breach of contracts in respect of goods purchased by plaintiff on behalf of defendant — Defendant refusing to take delivery on due dates — Contracts entered into in February 1952 — Section 3 of the Act found to be valid — Relevant Prohibition Order prohibiting forward contracts continued to remain in force under Proviso to S. 17 (4) of Essential Supplies (Temporary Powers) Act (1946) — Contracts held to be against law — Suit for damages for breach of those contracts held to be not maintainable: AIR 1964 Ker 92, **Reversed** (June) 504A

—Ss. 128 and 140 — Liability of surety — Nature of — Liability is not deferred until remedies against principal debtor are exhausted — Decree obtained by creditor against debtor and surety directing creditor to first exhaust remedies against principal

Contract Act (contd.)

debtor — Direction held not justified under O. 20, R. 11 (1) or S. 151, Civil P. C. : Judgment and decree in A. F. O. D. No. 300 of 1959, D/- 3-12-1962 (Pat), **Reversed**: (Apr) 297

—S. 140 — Payment of debt by surety — He is subrogated to the rights of creditor — See Contract Act (1872), S. 128 (Apr) 297

—S. 149 — Consignment of coal by Colliery to Company under Colliery Control Order 1945 — Colliery, held, acted as agent of Company and was responsible for freight and demurrage charges on Company's refusal to pay the same — See Railways Act (1890), S. 56 (Mar) 193

—S. 186 — Consignment of coal by Colliery to Company under Colliery Control Order 1945 — Colliery, held, acted as agent of Company and was responsible for freight and demurrage charges on Company's refusal to pay the same — See Railways Act (1890), S. 56 (Mar) 193

—S. 202 — Decree-holder indebted to Bank — Power of attorney by him in Bank's favour to execute decree and credit realisations for discharging his debt — Power constitutes equitable assignment and is not revocable — Bank can execute decree in its own rights (Jan) 73B

CO-OPERATIVE SOCIETIES

—Maharashtra Co-operative Societies Act (24 of 1961), S. 2 (2) — Registrar's nominee is not a 'Court' within S. 195, Criminal P. C. — Commission of offences under Ss. 465 and 471, Penal Code by party before Registrar's nominee — Magistrate can take cognizance thereof on private complaint — AIR 1930 Mad 896 and AIR 1934 Mad 40 and AIR 1935 Mad 673 and AIR 1918 Cal 932, **Overruled** — See Co-operative Societies — Maharashtra Co-operative Societies Act (24 of 1961), S. 95 (Aug) 724A

—S. 91 — Provisions do not affect provisions of S. 28 of Bombay Act 57 of 1947 (Dec) 1320D

—S. 91 (1) — Scope — Dispute touching the business of the Society — Word business is used in narrower sense — It means actual trading or commercial or similar business or activity of the Society (Dec) 1320A

—S. 91 (1) — Dispute touching the business of society — Ascertainment — Co-operative Bank acquiring a building — Dispute between the tenant of a member of the Bank in the building is not one touching the business of the Bank — No reference can be made (Dec) 1320B

—S. 91 (1) — Dispute between a Society and a member or a person claiming through a member — Claim should arise through a

Co-operative Societies—Maharashtra Co-operative Societies Act (contd.)

transaction entered into by a member with the Society as a member : AIR 1946 Nag 16 and AIR 1961 Madh Pra 40, **Overruled**

(Dec) 1320C

—Ss. 95, 96, 2(2) — Registrar's nominee is not a 'Court' within S. 195, Criminal P. C. — Commission of offences under Ss. 465 and 471, Penal Code, by party before Registrar's nominee — Magistrate can take cognizance thereof on private complaint : AIR 1930 Mad 869 and AIR 1934 Mad 40 (FB) and AIR 1935 Mad 673 and AIR 1918 Cal 932, **Overruled**

(Aug) 724A

—S. 96 — Registrar's nominee is not a 'Court' within S. 195, Criminal P. C. — Commission of offences under Ss. 465 and 471, Penal Code by party before Registrar's nominee — Magistrate can take cognizance thereof on private complaint — AIR 1930 Mad 869, AIR 1934 Mad 40, AIR 1935 Mad 673 and AIR 1918 Cal 932, **Overruled** — See Co-operative Societies — Maharashtra Co-operative Societies Act (24 of 1961), S. 95

(Aug) 724A

—S. 146 (p) — Offence under S. 146 (p) is distinct from offences under Ss. 463, 464, Penal Code — Does not repeal S. 465, Penal Code — Private complaint to Magistrate that a party under Ss. 465, 471, Penal Code — Prior sanction of Registrar under S. 148 (3) is not necessary — See Co-operative Societies — Maharashtra Co-operative Societies Act (24 of 1961), S. 148 (3)

(Aug) 724B

—Ss. 148 (3), 146 (p) — Offence under S. 146 (p) is distinct from offences under Ss. 463, 464, Penal Code — Does not repeal S. 465, Penal Code — Private complaint to Magistrate that a party before Registrar's nominee has committed offence under Ss. 465, 471, Penal Code — Prior sanction of Registrar under S. 148 (3) is not necessary

(Aug) 724B

Criminal Procedure Code (5 of 1898), S. 10 —

Sessions Judge directing District Magistrate to deliver proceeds of sale of subject-matter of offence to accused on his furnishing security bond to the satisfaction of the District Magistrate—Additional District Magistrate can accept the bond — See Criminal P. C. (1898), S. 517

(Mar) 189A

—S. 10 (2) — Notification under S. 40, Defence of India Act empowering District Magistrate to exercise powers under S. 29 thereof—Additional District Magistrate invested with all powers of District Magistrate under S. 10 (2), not competent to requisition property : AIR 1966 Punj 141, **Reversed**—See Defence of India Act (1962), S. 29

(Jun) 483

Criminal P. C. (contd.)

—S. 60 — Provision analogous to Art. 22 of Constitution — See Constitution of India, Art. 22

(Nov) 1014A

—S. 82 — Extradition Act (1962), S. 3 — Fugitive Offenders Act (1881) (44 and 45 Vict, C. 69)—Presidency Magistrate issuing warrant and sending it to Secretary, Home Department for onward transmission to Government of India for taking further steps for securing presence of accused in India from Hong Kong to undergo trial — Held, issue of warrant and procedure followed in transmitting warrant were not illegal, not even irregular—Though provisions of Extradition Act could not be availed of, that did not bar the requisition made by External Affairs Ministry to authorities in Hong Kong — Fugitive Offenders Act is not rendered inapplicable because India is no more a British possession—AIR 1968 Cal 220, **Reversed**

(Dec) 1171

—S. 156 — Offence falling under S. 307, I. P. C., wrongly registered by police under S. 325, I. P. C. — Police, held not justified in starting investigation after delay of 4 days by invoking provisions of Regn. 104, U. P. Police Regulations, even though victim had succumbed to his injuries — See U. P. Police Regulations, Reg. 104

(Nov) 951A

—S. 167 — Arrest of petitioner illegal — Magistrate ordering remand to jail custody — State must show that at the stage of remand the Magistrate directed detention after applying his mind to all relevant matters — See Constitution of India, Art. 22 (1)

(Nov) 1014D

—S. 190 (1) (a) — Registrar's nominee appointed under S. 95, Maharashtra Co-operative Societies Act, is not a 'Court' within S. 195, Cr. P. C. — Commission of offences under Ss. 465 and 471, Penal Code, by party before Registrar's nominee—Magistrate can take cognizance thereof on private complaint—See Co-operative Societies — Maharashtra Co-operative Societies Act (24 of 1961), S. 95

(Aug) 724A

—S. 195—F. I. R. alleging certain cognizable offences — Informant filing complaint before Magistrate making same allegations—Charge-sheet submitted by police against informant under Ss. 211, 182, 193, Penal Code — Non-compliance of S. 195 (1) (b)—Prosecution for offences under Ss. 211, 182, and 193 cannot continue—See Criminal P. C. (1898), S. 207A

(May) 355B

—S. 195 — Registrar's nominee appointed under S. 95 of Maharashtra Co-operative Societies Act is not a 'Court' within S. 195, Cr. P. C.—AIR 1930 Mad 869 and AIR 1934 Mad 40 and AIR 1935 Mad 673 and AIR

Criminal P. C. (contd.)

- 1918 Cal 932, **Overruled** — See Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 95 (Aug) 724A
- S. 195 (1) (b) and (1) (a) — F. I. R. alleging certain cognizable offences — Informant filing complaint before Magistrate making same allegations — Allegations found to be false by police—Magistrate cannot take cognizance of offences under Ss. 182, 211 and 193, Penal Code. A I R 1928 All 765, **Overruled** (May) 355A
- S. 197 — Sanction when required—Public servant must be acting in discharge of his duty (Aug) 686
- S. 205—Personal appearance of the accused dispensed with examination of pleader in place of accused is not a sufficient compliance with S. 342 — Except where the accused is a company or the juridical person accused alone has got to be examined—AIR 1962 Cal 203 (FB), **Overruled**—See Criminal P. C. (1898), S. 342 (May) 381A
- Ss. 207-A and 195 — Penal Code (1860), Ss. 211, 182 — Letter to police alleging certain cognizable offences—F. I. R. registered on the basis of the letter and investigation started—Informant filing complaint before Magistrate against the same persons making the same allegations — Police Report filed under S. 173 stating that the allegations were false — Charge-sheet submitted by police against informant under Ss. 408, 467, 474, 193, 335, 109, 211 and 182, Penal Code — Prosecution for offences under Ss. 182, 211 and 193 could not continue for non-compliance of S. 195 (1) (b), Criminal P. C. — Quashing of entire prosecution case held illegal—There could be no objection to the continuance of proceedings relating to the non-cognizable offences under the other sections. C. R. No. 34-M of 1965 D/- 4-2-1966 (Punj), **Reversed** (May) 355B
- Ss. 251A, 252 — Opium Act (1878), Sections 20G, 9 (a) — Offence under S. 9 (a) — Offence investigated in accordance with provisions of Act by Police Sub-Inspector—Report made by Sub-Police Officer under Section 20G—Trial held by Magistrate under Section 251A, Cr. P. C.—Held, there was no illegality in the trial — AIR 1963 Madh Pra 337, **Overruled** (Jan) 4B
- S. 252—Offences under S. 9 (a) of Opium Act investigated in accordance with provisions of Act — Report made by Police Sub-Inspector under S. 20G of Opium Act — Trial held under S. 251A by Magistrate is legal — Trial cannot be held under S. 252, Cr. P. C. — A I R 1963 Madh Pra 337, **Overruled**—See Criminal P. C. (1898), S. 251A (Jan) 4B

Criminal P. C. (contd.)

- S. 337 (2)—Evidence of approver—Credibility—See Evidence Act (1872), S. 133 (Nov) 961B
- S. 340 — Provision analogous to Art. 22 of Constitution — See Constitution of India, Art. 22 (Nov) 1014A
- Ss. 342, 205 and 540-A—Personal appearance of the accused dispensed with — Examination of pleader in place of accused is not a sufficient compliance — Except where the accused is a Company or the juridical person accused alone has got to be examined —AIR 1962 Cal 203 (FB), **Overruled** (May) 381A
- S. 342—Mere non-examination or defective examination of accused is not a ground for interference unless prejudice is established—See Criminal P. C. (1898), S. 537 (May) 381B
- S. 342 — Statement of accused under S. 342—Court can rely on a portion of statement and find accused guilty in consideration of other evidence against him led by prosecution (Nov) 956
- S. 367 — Appreciation of evidence — Murder—Child witness — Evidentiary value —Corroboration. Criminal Appeal No. 545 of 1962, D/- 9-2-1965 (Pat), **Partly Reversed** (Jan) 53
- S. 367 — Confessional statement — Acceptance of inculpatory portion alone — Permissibility—Inculpatory portion can be accepted if the exculpatory portion is found to be inherently improbable—See Evidence Act (1872), S. 3 (May) 422
- S. 403—Rule as to issue-estoppel—What is—Rule is different from principle of double jeopardy — For applicability of rule same issue must be distinctly raised and inevitably decided in earlier proceeding between same parties (Nov) 961A
- Ss. 517, 10 — Sessions Judge directing District Magistrate to deliver proceeds of sale of subject-matter of offence to accused on his furnishing security bond to the satisfaction of the District Magistrate — Additional District Magistrate can accept the bond—Direction of Sessions Judge not mentioning in whose favour bond has to be executed—Bond in favour of State Government is not bad — Criminal Misc. Case No. 28 of 1964, D/- 16-6-1964 (Cal), **Reversed** (Mar) 139A
- S. 517 — Order of return of seized property — Opportunity of being heard to aggrieved party must be given before passing such order — Cri. Misc. Case 135 of 1962, D/- 5-4-1963 (M. P.), **Reversed**—See Criminal Procedure Code (5 of 1898), S. 520 (May) 401A

Criminal P. C. (contd.)

—*Ss. 517 and 520* — Bank receiving currency notes in ordinary course of its business without suspicion of the notes being involved in commission of an offence — Seizure of notes by police during investigation of offence — Direction of High Court to hand over notes to person from whom accused had received them, held illegal—Bank had a "right to possess" the note within S. 517 — Cri. Misc. Case No. 135 of 1962, D/- 5-4-1963 (M. P.), **Reversed** (May) 401B

—*Ss. 520 and 517* — Order of return of seized property—Opportunity of being heard to aggrieved party must be given before passing such order—Cri. Misc. Case No. 135 of 1962, D/-5-4-1963 (M. P.), **Reversed** (May) 401A

—*S. 520* — Bank receiving currency notes in ordinary course of its business without suspicion of the notes being involved in commission of an offence—Bank has a "right to possess" the notes within S. 517 — Cri. Misc. Case No. 135 of 1962, D/- 5-4-1963 (M. P.), **Reversed** — See Criminal Procedure Code (5 of 1898), S. 517 (May) 401B

—*Ss. 537 and 342* — Mere non-examination or defective examination of accused is not a ground for interference unless prejudice is established (May) 381B

—*S. 540A* — Personal appearance of the accused dispensed with examination of pleader in place of accused is not a sufficient compliance with S. 342 — Except where the accused is a company or the juridical person accused alone has got to be examined—AIR 1962 Cal 203 (FB), **Overruled**—See Criminal P. C. (1898), S. 342 (May) 381A

—*S. 549* — Rules under (S. R. O. 709, dated 17-4-1952), Rules 3, 5—Applicability—Rules not attracted merely because police had started investigation in an offence under Army Act (May) 414B

Custom (Punjab) — Succession — Alienation of ancestral land without necessity by Hindu Jat—Suit by competent reversioner — Effect — Declaratory decree enures in favour of all heirs including female heirs—S. A. No. 254 of 1962, D/- 18-11-1963 (Punjab), **Reversed** — See Punjab Custom (Power to Contest) Act (2 of 1920), S. 8 (Dec) 1144A

DEBT LAWS

—**Displaced Persons (Debts Adjustment) Act (70 of 1947)**, S. 13—Involuntary assignment of debts—Joint Hindu family having cash deposits in bank in Pakistan — Pakistan (Administration of Evacuee Property) Ordinance (15 of 1949), S. 45—Effect—Liability of the Bank in India in respect of such deposits is extinguished—C. R. D. 104-15

Debt Laws — Displaced Persons (Debts Adjustment) Act (contd.)

D/- 12-9-1963, (Punjab), **Reversed**—See Constitution of India, Art. 51 (Dec) 1330B

—**Mysore Money Lenders Act (13 of 1939)**, S. 17—"Principal of original loan" — Court must go behind transaction of suit loan and find out actual cash amount originally advanced (Aug) 671A

—*S. 17*—Arrears of interest mean interest calculated up to date of decree — AIR 1959 Mys 102, **Reversed** (Aug) 671B

—*S. 17*—"Arrears of interest up to date of decree" means decree of original Court and not appellate Court (Aug) 671C

—*S. 17*—Suit on mortgage — Calculation of interest from date of decree to date of realisation — There is no conflict between S. 17 and Civil P. C. O. 34, R. 11 — Interest should be awarded in accordance with O. 34, R. 11—AIR 1959 Mys 102, **Reversed** (Aug) 671D

—**Mysore Usurious Loans Act (9 of 1923)**, S. 1 — Suit on mortgage — Calculation of interest from date of decree to date of realisation — There is no conflict between S. 17 and Civil P. C. O. 34, R. 11—Interest should be awarded in accordance with O. 34, R. 11—AIR 1959 Mys 102, **Reversed** — See Debt Law — Mysore Money Lenders Act (13 of 1939), S. 17 (Aug) 671D

—**Punjab Relief of Indebtedness Act (7 of 1934)**, S. 31 — Tender of payment — Tenant depositing money under S. 31 — Not a valid tender of payment — Civ. Rev. No. 750 of 1962, D/- 18-3-1964 (Punjab), **Reversed** — ILR (1964) 1 Punjab 626, **Overruled**—See Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (2) (i), Proviso (Dec) 1273

—**Saurashtra Agricultural Debtors Relief Act (23 of 1954)**, Ss. 2 (5), 2 (6) (i), 7—Joint usufructuary mortgage debt — Each mortgagor is liable for entire debt—There is no provision for splitting up the debt — C. R. Appl. No. 477 of 1960, D/- 12-2-1963 (Guj), **Reversed** (Jan) 69A

—*S. 7*—Joint usufructuary mortgage debt — Each mortgagor is liable for entire debt—There is no provision for splitting up the debt—See Debt Laws — Saurashtra Agricultural Debtors Relief Act (23 of 1954), S. 2 (5) (Jan) 69A

—*S. 29* — Saurashtra Land Reforms Act (25 of 1951), Ss. 6 and 20 — Mortgagee, not otherwise tenant under S. 6 of Land Reforms Act, in possession of land — Land, held by Mamlatdar to be Khalsa and full assessment ordered under S. 20 of Land Reforms Act —

Debt Laws—Saurashtra Agricultural Debtors Relief Act (contd.)

Occupancy rights not granted — Rights of mortgagor not extinguished under Land Reforms Act—Court can scale down debts under Debtors Relief Act. (Dec) 1196

Usurious Loans Act (10 of 1918), S. 2 (3) (c) — T. P. Act (1832), Ss. 60, 76 and 83 — Suit for accounts filed subsequently after reliefs envisaged under S. 60 have been obtained — Subsequent suit is not one for redemption of security — S. 2 (3) (c) of Act 10 of 1918 is not applicable. Reg. Appeal No. 134 of 1953, D/- 19.9.58 (Mys), **Reversed** (Sept) 751C

— S. 2 (3) (6) — Nature of — Suit for accounts and decree for surplus under S. 76, T. P. Act — Is not covered by S. 2 (3) (b) — (T. P. Act (1882), S. 76 and Civil P. C. (1908), O. 34, R. 9) (Sept) 751D

— S. 2 (3) (6) and (c) — Expression “commencement of the Act” under — Interpretation of — Coming into operation and commencement of the Act—Distinction between, pointed out. General Clauses Act (1897), Ss. 3 (13) and 5 (3) (Sept) 751E

— S. 2 (3) (a), (b) and (c) — Section 3 (3), is not intended to take away limitation laid down in S. 2 (3) (a), (b) and (c). AIR 1953 Punj 116, **Overruled** — See Debt Laws — Usurious Loans Act (1918), S. 3 (3) (Sept) 751

— Ss. 3 (3) and 2 (3) (a), (b) and (c) — Scope of S. 3 (3) — Section is not intended to take away limitations laid down in S. 2 (3) (a), (b) and (c). AIR 1953 Punj 116, **Overruled** (Sept) 751F

Deed—Construction — Absence of a specific clause in the agreement prohibiting transfer is not conclusive — Intention of the parties gathered from the contract as a whole and the surrounding circumstances is decisive— See Forward Contract (Regulation) Act (1952), S. 2 (f) (Jan) 9B

Defence of India Act (15 of 1962), Ss. 29 and 40 — Notification under S. 40 empowering District Magistrate to exercise powers under S. 29 — Additional District Magistrate, invested with all powers of District Magistrate under S. 10 (2), Criminal P. C., not competent to requisition property. AIR 1966 Punj 141, **Reversed** (June) 483

— S. 40 — Notification under S. 40 empowering District Magistrate to exercise powers under S. 29 — Additional District Magistrate invested with all powers of District Magistrate under S. 10 (2), Criminal P. C., not competent to requisition property. AIR 1966 Punj 141, **Reversed** — See Defence of India Act (1962), S. 29 (June) 483

Defence of India Rules (1962), R. 30A (8) — Necessity of communication of approval of Government to detenu under Preventive Detention Act — Does not arise with that strictness as it does under the rule — See: Public Safety — Preventive Detention Act. (1950), S. 3 (3) (Apr) 323B

Delhi and Ajmer Rent Control Act (38 of 1952) — See under Houses and Rents.

Delhi Development Act (61 of 1957), S. 14 — Permission for erection of building or execution of work — When can be refused — Mere preparation of Master plan under the Act—Plan not indicating any particular and definite use of any land — Permission cannot be refused on ground of contravention of S. 14 — See Municipalities — Delhi Municipal Corporation Act (66 of 1957), S. 336 (2) (a) (May) 386

Delhi Municipal Corporation Act (66 of 1957) — See under Municipalities.

Delhi Rent Control Act (59 of 1958) — See under Houses and Rents.

Displaced Persons (Compensation and Rehabilitation) Act (44 of 1954), S. 20B — Section whether unconstitutional being ultra vires Arts. 14 and 19 (1) (f) of the Constitution (Quaere) — See Constitution of India, Art. 14 (Dec) 1126A

— S. 20B — Section is ultra vires Art. 31 (2). L. P. A. No. 37 of 1967, D/- 3.5.1967 (P. & H.), **Reversed** — See Constitution of India, Art. 31 (2) (Dec) 1126B

Displaced Persons (Debts Adjustments) Act (70 of 1951) — See under Debt Laws.

East Punjab Factories (Control of Dismantling) Act (20 of 1948), S. 3 — Scope and applicability — Provision does not bar execution of a decree for eviction — L. P. A. No. 405 of 1958, D/- 3.10.1961 (Punjab), **Reversed** but on a different ground (Jan) 27

East Punjab Refugees (Registration of Land Claims) Act (12 of 1948), S. 2 (e) and (d) — ‘Displaced person’ and ‘Refugee’ — Person who has died before the disturbance took place and has never migrated to India, is not either a displaced person or a refugee — No allotment can be made in his favour even though his name appears in revenue records — Para. 17 of Tarlok Singh’s Land Resettlement Manual is no statutory authority (Jan) 33A

East Punjab Urban Rent Restriction Act (3 of 1949) — See under Houses and Rents.

EDUCATION

—**Intermediate Education Act (U.P. Act 2 of 1921), S. 16G** — Domestic inquiry into misconduct of employee during pendency of a parallel inquiry before Court in the absence of stay order — No contempt — Broad observations of Narayan J. in AIR 1949 Pat 222 (FB) to the contrary, **Overruled** — See Contempt of Courts Act (1952), S. 1 (Jan) 30

—*Regns. 31 to 45* — Domestic inquiry into misconduct of employee during pendency of a parallel inquiry before Court in the absence of stay order — No contempt — Broad observations of Narayan J. in AIR 1949 Pat 222 (FB) to the contrary, **Overruled** — See Contempt of Courts Act (1952), S. 1 (Jan) 30

—**Kerala University Act (14 of 1957)** — Statutes under — Statute 1, Chap. VII, Cl. 3 (xxvii) — Constitution of India, Art. 226 — Misconduct by student in examination — Inquiry into — Show cause notice to student after inquiry — Report of inquiry not given to student — Not a breach of rule of natural justice (Mar) 198B

—*Ss. 19N, 28 and Statute 1, Ch. VII, Cl. 3 (xxvii)* — Misconduct by student in examination — Inquiry — Appointment of person other than Principal of the concerned College as Inquiry Officer — It is not illegal (Mar) 198A

—*S. 28* — Misconduct by student in examination — Inquiry — Appointment of person other than principal of concerned College as Inquiry Officer — It is not illegal — See Education — Kerala University Act (14 of 1957), S. 19N (Mar) 198A

—*Statute 1, Ch. VII, Cl. 3 (xxvii)* — Misconduct by student in examination — Inquiry — Appointment of person other than principal of concerned College as Inquiry Officer — It is not illegal — See Education — Kerala University Act (14 of 1957), S. 19N (Mar) 198A

Electricity Act (9 of 1910), S. 3 (f), Sch. Cl. (12) — Bombay Electricity (Surcharge) Act, (as extended to Ajmer Merwara by Ajmer Merwara Extension of Laws Act, 1947) (19 of 1946), Ss. 3, 4 — Competency of Legislature to provide for surcharge — No conflict in Cl. 12 of Schedule in former Act and Ss. 3 and 4 of latter Act — Notification issued by Chief Commissioner of Ajmer levying surcharge is not ultra vires the provisions of Electricity Act — F. A. No. 67 of 1956 D/- 22-9-1964 (Raj), **Reversed** (Mar) 227C

—*S. 6 (1) (a) (as amended in 1959)* — Provisions of S. 6 (1) are mandatory — Notice must specifically call upon licensee to sell

Electricity Act (contd.) — the undertaking — Power must be exercised in mode prescribed (Apr) 267

—*S. 7 (prior to its amendment in 1959)* — Electricity (Supply) Act (1948), S. 71 (prior to its repeal in 1959) — Right and option of State Government or local authority to purchase undertaking — State Electricity Board, can exercise such right (Mar) 239B

—*S. 7 (1), (2) and (4) (prior to its amendment in 1959)* — Purchase of undertaking — Exercise of option to purchase as well as electing to purchase is one integral process and not two independent steps — Spl. Civil Appln. No. 94 of 1962, D/- 31-10-1963 (Guj), **Reversed** (Mar) 239A

—*Sch. Cl. (12)* — No conflict in Cl. 12 of Schedule in Electricity Act, 1910 and Ss. 3 and 4 of Bombay Electricity (Surcharge) Act (as extended to Ajmer-Merwara by Ajmer Merwara Extension of Laws Act, 1947) (19 of 1946), F. A. No. 67 of 1956, D/- 22-9-1964 (Raj), **Reversed** — Notification issued by Chief Commissioner of Ajmer levying surcharge is not ultra vires the provisions of Electricity Act — See Electricity Act (1910) S. 3 (f) (Mar) 227C

Electricity (Supply) Act (54 of 1948), S. 2 (8) — "Maximum demand" — Interpretation of — See Electricity (Supply) Act (1948), S. 19 (1), (b) (ii) (Sep) 770

—*Ss. 19 (1) (b) (ii) and 2 (8)* — "Maximum demand" — Interpretation of — Actual maximum off-take of electricity by consumer from licensee less than fifty per cent of maximum demand of licensee — Board cannot supply electricity directly to consumer. S. A. Nos. 33 and 34 of 1964, D/- 4-7-1964 (Guj), **Reversed** (Sep) 770

—*S. 57 (as amended in 1956) and Sch. VI* — License granted prior to amendment — Charges fixed by Government can be enhanced unilaterally by licensee by virtue of amendment of S. 57 — Right to pay charges fixed previously is not vested right (Dec) 1225

—*S. 71 (prior to its repeal in 1959)* — Right and option of State Government or local authority to purchase undertaking — State Electricity Board can exercise such right — See Electricity Act (1910) (prior to its amendment in 1959), S. 71 (Mar) 239B

—*Sch. VI (as amended in 1956)* — License granted prior to amendment of S. 57 — Right to pay charges fixed previously is not vested right — See Electricity (Supply) Act (1948), S. 57 (as amended in 1956) (Dec) 1225

Essential Supplies (Temporary Powers) Act (24 of 1946), S. 17 (4) Proviso — Suit for damages for breach of contracts in respect of goods purchased by plaintiff on behalf of

Essential Supplies (Temporary Powers) Act
(*contd.*)

defendant—Defendant refusing to take delivery on due dates—Contracts entered into in February 1952—S. 3, Trav. Co. Public Safety Measures Act (5 of 1950) — Act found to be valid—Relevant Prohibition Order prohibiting forward contracts continued to remain in force under Proviso to S. 17 (4) of Essential Supplies (Temporary Powers) Act (1946) — Contracts held to be against law—Suit for damages for breach of those contracts held to be not maintainable. AIR 1964 Ker 92, **Reversed**—*See* Contract Act (1872), S. 73

(Jun) 504A

Evidence Act (1 of 1872), S. 1—Domestic Tribunal — Technical rules of evidence do not apply to domestic enquiry — Substantive rules, which form part of principles of natural justice, cannot, however, be ignored by domestic tribunals

(Nov) 983C

—S. 3—Evidence — Land acquisition proceedings — Market value of land—Reference by appellate Court after conclusion of arguments to documents which are not part of record is not permissible — They should be admitted as fresh evidence and parties given opportunity to rebut them. AIR 1964 Madh Pra 196, **Reversed**

(Mar) 255B

—S. 3—Appreciation of evidence — Oral evidence — Civil cases — In assessing the value of the evidence Judges are bound to call in aid their experience of life and test the evidence on basis of probabilities—Evidence of only one party even when no evidence of rebuttal is led by opposite party need not necessarily be accepted: (Mar) 255C

—Ss. 3 and 24—Confessional statement — Acceptance of inculpatory portion alone — Permissibility — Inculpatory portion can be accepted if the exculpatory portion is found to be inherently improbable — Charge for murder — Confessional statement to Mukhiya of village — Exculpatory portion found to be not only inherently improbable but contradicted by the statement of accused under S. 342, Criminal P. C.—Acceptance of inculpatory portion and conviction based thereon, held, was valid

(May) 422

—S. 3 — Registrar's nominee is not a 'Court' within S. 195, Criminal P. C. AIR 1930 Mad 896 and AIR 1934 Mad 40 and AIR 1935 Mad 673 and AIR 1918 Cal 932, **Overruled** — *See* Co-operative Societies — Maharashtra Co-operative Societies Act (24 of 1961), S. 95

(Aug) 724A

—S. 3—Election petition — Evidence of Returning Officer will have to be scrutinised carefully and must be accepted at least to the extent to which it may be supported by circumstantial evidence

(Nov) 1034F

Evidence Act (*contd.*)

—S. 5—Appeal to Supreme Court — Finding of fact and appreciation of evidence — Practice — Supreme Court should be slow to depart from the conclusion of the trial judge—*See* Representation of the People Act (1951), S. 116A (May) 395B

—S. 24—Confessional statement—Acceptance of inculpatory portion alone—Permissibility—Inculpatory portion can be accepted if the exculpatory portion is found to be inherently improbable — *See* Evidence Act (1872), S. 3 (May) 422

—Ss. 57, 114—Courts are bound to take judicial notice of prorogation and presume the regularity of these actions which must be interpreted as far as possible so that the thing done may be valid rather than invalid (Oct) 903C

—Ss. 60, 63 — News item published by newspapers — No further proof of what had actually happened — It is of no value

(Dec) 1201D

—S. 63—News item published in Newspaper—It is at best a second-hand secondary evidence—*See* Evidence Act (1 of 1872), S. 60

(Dec) 1201D

—S. 65 (a) and (f) — Clause (a) is not controlled by cl. (f) — When case falls under cl. (a), any secondary evidence (a plain copy of the document) and not necessarily certified copy of document is admissible, though the case may also fall under cl. (f) (Mar) 253

—Ss. 101 to 104—Plea of insanity — Held on evidence that defence of insanity was not made out — *See* Penal Code (1860), S. 84

(Jan) 15

—Ss. 101 to 104 — Onus of proof — Hindu convert to Christianity claiming reconversion to Hindu faith — Onus is on him to prove reconversion—*See* Hindu Law — Conversion (Jan) 101C

—Ss. 101 to 104—Person setting up invalidity of transfer by way of exchange under S. 27 (1), Sonthal Parganas Settlement Regulation — Burden of proving that subject-matter of exchange was raiyati land situate in Sonthal Parganas lies on him—Discharge of onus — Onus shifts to other side to show that transfer comes within exception to rule laid down in S. 27 (1) and he must show that Record of rights contained an entry authorising transferor to transfer raiyati land — AIR 1964 Pat 254, **Reversed** (Mar) 204B

—Ss. 101 to 104—Claim for depreciation—Dispute as to — Company must prove by legal evidence amount claimed — *See* Payment of Bonus Act (1965), S. 6 (Aug) 612B

—Ss. 101 to 104 — Benami — Burden of proof — Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967),

Evidence Act (contd.)

R. 12 — Benami auction purchase in contravention of R. 12—Burden of proof — Person making allegation of Benami must prove it — No allegation or proof that some person other than auction purchaser had been managing shops and selling liquor in contravention of S. 15 of Mysore Excise Act (1965) — Confirmation of highest bid of purchase without any objection — Purchase held not benami or illegal merely because he obtained necessary funds from some financiers — *See* Mysore Excise Act (1965), S. 15 (Aug) 655G

— *Ss. 101-104*—Proof of negligence — Duty of Railway administration to disclose how consignment was dealt with — It is only if negligence cannot be inferred from administration's evidence, that burden of proving negligence shifts to consignor—*See* Railways Act (1890), S. 74-D (Oct) 817A

— *Ss. 101-104*—Compensation for termination of managing agency — Claim for allowance under S. 10 (2) (xv) of Income-tax Act (1922) by assessee Company — Burden of proof lay upon company to prove that expenditure was incurred wholly and exclusively for business of the Company — *See* Income-tax Act (1922), S. 10 (2) (xv) (Oct) 917B

— *Ss. 101-104* — Evidence Act (1872), *Ss. 101-104*—Presumption and onus — Adoption recognised by all members of family for over fifty years — Strong presumption in favour of its validity arises — Heavy burden lies on reversioner challenging it to prove his allegation that it is invalid on the ground of the adoptive mother lacking competence to adopt—*See* Hindu Law—Adoption (Dec) 1359

— *S. 101* — Ancestral property — No presumption of joint property — Possession of nucleus essential—Burden of proof — When shifts—*See* Hindu Law—Joint family (Nov) 1076C

— *S. 113*—Section is obsolete—*See*, Constitution of India, Art. 51 (Sep) 783B

— *S. 114*—Presumption of accuracy under S. 23, Payment of Bonus Act (1965) attaching to balance sheet and P & L account not applicable to auditor's certificate — *See* Payment of Bonus Act (1965), S. 6 (Aug) 612B

— *S. 114* — Courts are bound to take judicial notice of prorogation and presume the regularity of these actions which must be interpreted as far as possible so that the thing done may be valid rather than invalid — *See* Evidence Act (1872), S. 57 (Oct) 903C

— *S. 114* — Failure to examine witness — Inference from — Election petition against uncontested election of one *N* to State

Evidence Act (contd.)

Assembly—Allegation of corrupt practice — Application under O. 16, R. 14, Civil P. C., to examine one :*P* who was alleged to be main instrument in commission of corrupt practice — Ex-Petitioner's version found to be not true—Held, there was no compelling reason for High Court to examine *P* as a Court witness or even to draw an inference against *N* for his failure to examine *P* — *See* Representation of the People Act (1951), S. 90 (Nov) 1034E

— *S. 114* — Ancestral property — No presumption of joint property — Possession of nucleus essential — *See* Hindu Law — Joint family (Nov) 1076C

— *S. 114* — Adoption:— Recognition of adopted person by members of family for over fifty years — Strong presumption arises in favour of its validity — *See* Hindu Law—Adoption (Dec) 1359

— *S. 114, Ill. (b)* — Persons giving illegal gratification under coercion and fear of being harassed are not accomplices—*See* Evidence Act (1872), S. 133 (Jan) 17A

— *S. 114 (b)* — Though trap witnesses are interested witnesses as a matter of law, their evidence cannot be rejected for want of corroboration—*See* Evidence Act (1872), S. 133 (Jan) 17B*

— *S. 114, Illus. (b)* — Evidence of approver — Presumption — *See* Evidence Act (1872), S. 133 (Nov) 961B

— *S. 115*—Writ petition against R. T. A's order—*See* Constitution of India, Art. 226 (Apr) 329E

— *S. 115*—Principle of issue estoppel — Its applicability — *See* Criminal P. C. (1898), S. 403 (Nov) 961A

— *S. 115* — Decree-holder creditors applying for rateable distribution of assets held by executing Court in respect of another decree passed by High Court cannot challenge the decree under which the assets were held, as invalid, on the ground that High Court had no territorial jurisdiction under Cl. 12 of Letters Patent to pass decree for sale of properties outside its local limits of its ordinary original jurisdiction — *See* Civil P. C. (1908), S. 21 (Dec) 1147D

— *Ss. 133 and 114, Illus. (b)* — Accomplice, who is — Trial of offences under Prevention of Corruption Act — Persons giving illegal gratification under coercion and fear of being harassed are not accomplices—Their evidence is not required to be corroborated (Jan) 17A

— *Ss. 133 and 114, Illus. (b)*—Trap witnesses — Evidence—Corroboration—Trial of offences under Prevention of Corruption Act — Though trap witnesses are interested witnesses

Evidence Act (contd.)

ses, as a matter of law, their evidence cannot be rejected for want of corroboration

(Jan) 17B

—Ss. 133, 114, *Illus. (b)* — Evidence of approver—Test of credibility — Necessity and nature of corroboration (Nov) 961B

—S. 159—Speeches made by certain Maharaj during election campaign — Notes taken down by members of Police Force and reported to their officers—Election petition on grounds of corrupt practice — Speeches as evidence of corrupt practice, sought to be proved by producing these members as witnesses — Reports held complied with conditions of S. 160 and were not used for purpose of S. 159 — See Evidence Act (1872), S. 160 (Oct) 851A

—Ss. 160, 159 — Applicability — Speeches made by certain Maharaj during election campaign — Notes taken down by members of Police Force and reported their officers — Election Petition on the ground of corrupt practice — Speeches as evidence of corrupt practice—Sought to be proved by producing these members as witnesses — Reports held complied with conditions of S. 160 — A I R 1938 Lah 629 and AIR 1932 Lah 7, **Overruled** (Oct) 851A

—S. 167—Civil P. C. (1908), S. 99 — Land Acquisition proceeding — Compensation awarded by Land Acquisition Officer substantially enhanced by High Court relying on inadmissible evidence — Evidence of claimant rejected by High Court—No appeal by Government against enhancement of compensation — If inadmissible evidence were not relied, the compensation allowed by Land Acquisition Officer would have remained — Claimant cannot therefore complain against High Court that it has taking into consideration inadmissible evidence (Mar) 255D

Expenditure Tax Act (29 of 1957), S. 3 — Not violative of Article 14 of Constitution on ground that Mapilla undivided family governed by Marumakkattayam law in North Malabar is not assessable as 'undivided family' but as an 'individual' at lower rate (Nov) 1094B

Extradition Act (34 of 1962), S. 3 — Securing presence of accused in India from Hong Kong — Though provision of Act could not be availed of that did not bar requisition made by External Affairs Ministry to authorities in Hong Kong. A I R 1968 Cal 220, **Reversed** — See Criminal P. C. (5 of 1898), S. 82 (Dec) 1171

Factories Act (63 of 1948), S. 59 — Factory declared as an establishment under Bihar Shops and Establishments Act — Overtime

Factories Act (contd.)

payment to workmen — Bihar Shops and Establishments Act has no relevance in deciding the question of payment of overtime wages — See Industrial Disputes Act (14 of 1947), S. 2 (rr) (Apr) 306B

Fatal Accidents Act (13 of 1855), S. 1-A—Tort — Negligence—Duties of doctor towards his patient (Jan) 128

Finance Act (18 of 1956), Explanation to Paragraph D Part II—Share premium account in reserves — Account identifiable as separate account within reserves—Account liable to be included in paid up capital in computing reduction in rebate of super-tax (Nov) 1058

Finance Act (50 of 1957), Explanation to Paragraph D, Part II—Share premium account in reserves — Account identifiable as separate account within reserves — Account liable to be included in paid up capital in computing reduction in rebate of super-tax — See Finance Act (1956), Explanation to Paragraph D, Part II (Nov) 1058

Forward Contracts (Regulation) Act (74 of 1952), S. 2 (f) — Specific delivery contract—Construction—Transferable or non-transferable — Absence of a specific clause in the agreement prohibiting transfer is not conclusive—Intention of the parties gathered from the contract as a whole and the surrounding circumstances is decisive — Contract placed by Central Purchase Organization, Government of India, in Form D. G. S. and D. 68—Held non-transferable specific delivery contract (Jan) 9B

—Ss. 15 (1), 17, 18 (1) — Government can by a notification declare all forward contracts illegal except those which are non-transferable specific delivery contracts (Jan) 9A

—S. 17 — Government can by a notification declare all forward contracts illegal except those which are non-transferable specific delivery contracts — See Forward Contract (Regulation) Act (1952), S. 15 (1) (Jan) 9A

—S. 18 (1) — Government can by a notification declare all forward contracts illegal except those which are non-transferable specific delivery contracts — See Forward Contract (Regulation) Act (1952), S. 15 (1) (Jan) 9A

Fugitive Offenders Act (1881), (44 and 45 Vict C 69), S. 13—Extradition—Fugitive Offenders Act is not rendered inapplicable because India is no more a British possession. A I R 1963 Cal 220, **Reversed** — See Criminal P. C. (5 of 1898), S. 82 (Dec) 1171

—S. 26—Extradition — Fugitive Offenders Act is not rendered inapplicable because

Fugitive Offenders Act (contd.)
India is no more a British possession. A I R 1968 Cal 220, **Reversed** — *See* Criminal P. C. (5 of 1898), S. 82 (Dec) 1171

Fundamental Rules

See under Civil Services.

General Clauses Act (10 of 1897), S. 3 (2) — Word "act" also includes illegal omissions — *See* Municipalities—Ajmer Marwar Municipalities Regulation (1925), S. 233 (Mar) 227A

— **S. 3 (13)** — Expression "commencement of the Act" under—Interpretation of—Coming into operation and commencement of the Act — Distinction between, pointed out — *See* Usurious Loans Act (1918), S. 2 (3) (6) and (c) (Sept) 751

— **S. 3 (42)** — Neither God nor any supernatural being can be person in law—But Hindu deity can figure as legal person — *See* Income Tax Act (1922), S. 3 (Nov) 1089

— **S. 5 (3)** — Coming into operation and commencement of the Act — Distinction between, pointed out—*See* Usurious Loans Act (1918), S. 2 (3) (6) and (c) (Sept) 751

— **S. 6** — Effect of repeal — Exchange of raiyati land situate in Sonthal Parganas for land situate outside it — Transaction is invalid under S. 27 (1), Sonthal Parganas Settlement Regulation which was in force — Subsequent repeal, of Ss. 27 and 28 by Sonthal Tenancy (Supplementary Provisions) Act (14 of 1949) cannot affect its invalidity and render it a valid and binding transaction (Mar) 204E

— **S. 6** — Issue of notice to purchase undertaking of licensee by State Electricity Board prior to amendment of S. 7 of Electricity Act 1910 and repeal of S. 71 of Electricity (Supply) Act 1948—Expiry of licence period after the amendment and repeal of those provisions—S. 6 comes to the aid of Board and it could purchase the undertaking when new law has not either expressly or impliedly, taken away right acquired earlier (Mar) 239C

— **S. 6** — Repeal of Act and its replacement by new Act — Vested rights under repealed Act continue — *See* Electricity (Supply) Act (1948), S. 57 (as amended in 1956) (Dec) 1225

— **S. 6 (e)** — Applicability — Proceedings under Income Tax Act (1922), pending at commencement of Income-tax Act (1961)—Right to prosecute in respect of such proceedings—Not taken away by new Act (Aug) 701C

— **S. 8 (1)** — Applicability — Application under Ss. 8 and 20, Arbitration Act—There is no prescribed period of limitation—Art. 181, Limitation Act does not apply—Nor S. 8 (1),

General Clauses Act (contd.)

General Clauses Act can be applied. A I R 1965 All 269, **Reversed** — *See* Arbitration Act (1940), S. 8 (June) 474

— **S. 14** — Power under S. 6 (1) of Electricity Act (1910, as amended in 1959) — Exercise of — Strict compliance with S. 6 (1) is mandatory — *See* Electricity Act (1910, as amended in 1959), S. 6 (1) (a) (Apr) 267

— **S. 22** — Act receiving assent of President on 22-12-54 but coming into force on 1-4-55—Rules framed under S. 26 of Act published on 28-3-55—Rules held legally operative from 1-4-55 by reason of S. 22, General Clauses Act read with S. 29, Sales Tax Act — Civil Writ Petn. No. 401 of 1963, D/- 3-4-1965 (Raj), **Reversed** — *See* Sales Tax — Rajasthan Sales Tax Act (29 of 1954), S. 26 (Oct) 880A

— **S. 26** — Scope — False statement in verification of Income-tax return — Person can be prosecuted both under S. 177, Penal Code and S. 52 of Income-tax Act (1922) at the same time—Section 26 only bars punishment of offender twice for same offence and not trial or conviction under both enactments — (Income Tax Act (1922), S. 52) — (Penal Code (1860), S. 177) (Aug) 701D

HIGH COURT RULES AND ORDERS

— **Calcutta High Court (Original Side) Rules, Ch. 13, R. 1** — Powers of Court — Clause in trust-deed empowering settlor to alter quantum of interest given to each beneficiary 'by will alone' — Order by court permitting settlor to revoke that clause and to permit said alteration being done by deed *inter vivos* — Validity of order — Court has no power to pass such order under Ch. 13, R. 1 — *See* Trusts Act (1882), S. 34 (Oct) 823A

— **Hindu Adoption and Maintenance Act (78 of 1956), S. 19** — Section governs rights of widowed daughter-in-law to maintenance after its enactment — *See* Civil P. C. (1908), O. 23, R. 1 (Dec) 1118

— **Hindu Law—Adoption**—Adoption by widow under authority from husband — Adoption made in 1904—Adoptee recognised by every member of the family as the adopted son of deceased husband—Reversioner challenging validity of adoption after the lapse of fifty years on the ground that the widow was a minor at the time of adoption — All parties to the adoption and all those who could give evidence in support of its validity not alive at the time of suit — Burden lies heavily on reversioner to rebut the strong presumption in favour of validity of the adoption which arises in the case by showing that the widow

Hindu Law (contd.)
 was a minor at the time of adoption and therefore was not competent to make the adoption (Dec) 1359

—Caste system — Conversion—Christian marrying Hindu woman under Hindu rites—Declaring himself Adi Dravida Hindu — Steps amount to declaration of Hindu faith — See Hindu Law—Conversion (Jan) 101C
 —Charitable endowments — Tank can be an object of charity — Inam in favour of the “uracheruvu” (tank)—Tank must be considered a charitable institution within the meaning of Andhra Act 37 of 1956 (July) 563A

—Charitable endowment — Succession — Rule of — Charitable trust created by will—No direction as to line of succession—Ordinary rule of inheritance applies — Sister precedes distant agnate (July) 569A

—Conversion — Onus of proving conversion is on convert—See Constitution (Scheduled Castes) Order (1950), Para. 3 (Jan) 101B

—Conversion — Effect on caste — Hindu belonging to Adi Dravida Caste converted to Christianity — He ceases to belong to Adi Dravida Caste — Burden lies on him to prove that on reconversion he again became member of Adi Dravida Caste (Jan) 101C

—Conversion — Ordinarily, membership of caste under Hindu religion is acquired by birth — (Quaere) Whether membership of caste can be acquired by conversion to Hinduism or after reconversion to Hinduism (Jan) 101D

—Doctrine of relation back is not applicable to an adoption made by widow of taluqdar governed by Oudh Estates Act (1869). ILR (1964) 2 All 191, **Reversed** — See Tenancy Laws — Oudh Estates Act (1869), S. 22 (7) (Jan) 135B

—Joint family—Ancestral property — No presumption of joint property — Possession of nucleus essential — Burden of proof — When shifts (Nov) 1076C

—Joint Hindu family—Coparcenership — Incidents—Joint Hindu family under Hindu law is not an individual but a body of individuals contemplated by Notification D/- 15-2-52 issued by Government of Pakistan under S. 45 of Pakistan (Administration of Evacuee Property) Ordinance (Dec) 1330A

—Joint family — Mitakshara law — Undivided family — It is characterised by community of interest and unity of possession (Nov) 1094C

—Joint family — Partition — Severance of joint status — Essentials — Definite and unequivocal expression of intention necessary (Nov) 1076B

Hindu Law (contd.)
 —Manager—Liability for tax—Failure to satisfy tax due by Hindu undivided family—Enforcement of certificate under S. 222 — Manager is not liable to be arrested and detained in prison — Income assessed being one of Hindu undivided family, Manager cannot be deemed to be an assessee in default. (1966) 2 Andh L T 423 and ILR 1967 Andh Pra 729, **Reversed** — See Income Tax Act (1961), S. 222 (Aug) 682A
 —Religious Endowment — Deity — Concept of Hindu deity and God, explained — See Income Tax Act (1922), S. 3 (Nov) 1089
 —Widow — Adoption—See Tenancy Laws — Oudh Estates Act (1869), S. 22 (7) (Feb) 135B

—Widow — Adverse possession against Hindu widow not adverse against next reversioners — Suit by reversioner to recover possession — Starting point of limitation is widow's death—AIR 1964 Pat 254, **Reversed** — See Limitation Act (1908), Art. 141 (Mar) 204C

Hindu Law of Inheritance (Amendment) Act (2 of 1929), S. 1(2) — Property — Whether hereditary trusteeship is ‘property’—(Quaere) (July) 569B

—S. 2 — Succession — Rule of — Charitable trust created by will — No direction as to line of succession — Ordinary rule of inheritance applies — Sister precedes distant agnate — See Hindu Law — Charitable endowment (July) 569A

Hindu Succession Act (30 of 1956), S. 2 — Alienation of ancestral land without necessity by Hindu Jat — Suit by competent reversioner — Effect—Declaratory decree enures in favour of all heirs including female heirs — S. A. No. 254 of 1962 D/- 18-11-1963 (Punj), **Reversed**—See Punjab Custom (Power to Contest) Act (2 of 1920), S. 8 (Dec) 1144A

—S. 4—Alienation of ancestral land without necessity by Hindu Jat in 1916—Decree obtained by competent reversioner in 1920 declaring alienation ineffective against his reversionary interest—Death of alienor after Hindu Succession Act — Held that the latter Act did not retrospectively enlarge the power of the holder of ancestral land and did not nullify the decree obtained before the Act — S. A. No. 254 of 1962, D/- 18-11-1963, Punj **Reversed** — See Punjab Custom (Power to Contest) Act (2 of 1920), S. 8 (Dec) 1144C

—S. 4 (1) — Alienation of ancestral land without necessity by Hindu Jat — Suit by competent reversioner—Effect—Declaratory decree enures in favour of all heirs including female heirs — S. A. No. 254 of 1962, D/- 18-11-1963 (Punj), **Reversed**—See Punjab

Hindu Succession Act (contd.)
 Custom (Power to Contest) Act (2 of 1920),
 S. 8 (Dec) 1144A

—S. 14, *Explanation*—Explanation contemplates a situation where a female Hindu could be in possession of joint family property in lieu of maintenance—*See* Civil P. C. (1908), O. 23, R. 1 (Dec) 1118

HOUSES AND RENTS

—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), Ss. 12 (1) and 112 (3) (b)—Suit by landlord against eviction of tenant—Tenant in arrears of rent—During pendency of suit, tenant not paying standard rent, nor was he ready or willing to pay—Instead, he claimed that he was not liable to pay any amount—Tenant, held, could not claim protection from eviction (Jan) 37C

—S. 20—Recovery of overpaid amount by tenant—Amount incapable of recovery by way of suit because of bar of limitation—It cannot be recovered by deduction (Jan) 37B

—S. 28—Provisions of section not affected by S. 91, Maharashtra Co-operative Societies Act (24 of 1961)—*See* Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 91 (Dec) 1320D

—Delhi and Ajmer Rent Control Act (38 of 1952), S. 13 (1) (h)—Effect of first proviso on proceedings pending under 1952 Act, stated—*See* Houses and Rents—Delhi Rent Control Act (59 of 1958), S. 14 (1) (h) (Dec) 1288A

—S. 13 (1) (h)—Premises let out to predecessor-in-interest of tenants for residence-cum-business or professional purposes—No eviction could be ordered merely on ground that tenants had built a large residential house—*See* Houses and Rents—Delhi Rent Control Act (59 of 1958), S. 14 (1) (h) (Dec) 1288B

—S. 13 (1) (k)—Eviction of tenant under Delhi Rent Control Act passed during pendency of appeal against order—Relief under S. 14 (1) (j) of new Act cannot be claimed—*See* Houses and Rents—Delhi Rent Control Act (1958), S. 57 (2) First proviso (Dec) 1165

—Delhi Rent Control Act (59 of 1958), Ss. 14 (1) (h) and 57 (2), First proviso—Delhi and Ajmer Rent Control Act (38 of 1952), S. 13 (1) (h)—Effect of first proviso on proceedings pending under 1952 Act (Dec) 1288A

—S. 14 (1) (h)—Delhi and Ajmer Rent Control Act (38 of 1952), S. 13 (1) (h)—Premises let out to predecessor-in-interest of tenants for residence-cum-business or pro-

Houses and Rents—Delhi Rent Control Act (contd.)

fessional purposes—Suit for eviction under S. 13 (1) (h)—No eviction could be ordered merely on ground that tenants had built a large residential house (Dec) 1288B

—S. 14 (1) (h)—Eviction suit—Concurrent findings that premises were taken for residential-cum-business purposes—Finding being one of fact must be accepted as final in special appeal to Supreme Court—*See* Constitution of India, Art. 136 (Dec) 1288C

—Ss. 14 (1) (j), 14 (10)—Tenant's eviction under S. 13 (1) (k), Delhi and Ajmer Rent Control Act, 1952—Delhi Rent Control Act passed during pendency of appeal against order—Relief under S. 14 (1) (j) is not available—*See* Houses and Rents—Delhi Rent Control Act (1958), S. 57 (2) First proviso (Dec) 1165

—Ss. 57 (2), First Proviso, 14 (1) (j) and 14 (10)—Tenant's eviction under S. 13 (1) (k), Delhi and Ajmer Rent Control Act, 1952—Delhi Rent Control Act passed during pendency of appeal against order—In revision tenant claiming relief under S. 14 (1) (j) of new Act—Premises situated in area subjected to Slum Areas (Improvement and Clearance) Act, 1956—Proviso to S. 57 (2) of new Act does not apply to case—Matter is governed by the repealed Delhi and Ajmer Rent Control Act and hence order for eviction of the tenant was the proper order to be made (Dec) 1165A

—S. 57 (2), First Proviso—Effect of First Proviso on proceedings pending under Act (38 of 1952)—*See* Houses and Rents—Delhi Rent Control Act (59 of 1958), S. 14 (1) (h) (Dec) 1288A

—East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (2) (i), Proviso—Tender of payment—Tenant depositing money under S. 31, East Punjab Relief of Indebtedness Act, 1934—Not a valid tender of payment—Civil Revn. No. 750 of 1962, D/- 18-3-1964 (Punj), **Reversed**. 1LR (1964) 1 Punj 626, **Overruled** (Dec) 1273

—Rajasthan Premises (Control of Rent and Eviction) Act (17 of 1950), S. 13 (1) (c)—Realisation of rent by landlord after subletting of premises—Permission for subletting cannot be inferred—Knowledge of subletting is essential (Dec) 1291B

—S. 13 (1) (e)—Subletting without permission of landlord—Eviction is proper—Premises whether sublet before or after commencement of Act is immaterial (Dec) 1291C

Houses and Rents (contd.)

—**West Bengal Premises Rent Control (Temporary Provisions) Act (17 of 1950), S. 12 (1) (i) and 14**—Acceptance of rent after default by landlord and continuance of old tenancy
 —Default under old tenancy also continues
 —Landlord is entitled to use S. 12 (1) (i) and proviso to sub-s. (3) of S. 14 (Dec) 1187A
 —**S. 14**—Acceptance of rent after default by landlord and continuance of old tenancy
 —Default under old tenancy also continues
 —Landlord is entitled to use S. 12 (1) (i) and proviso to sub-s. (3) of S. 14 — *See* Houses and Rents—**West Bengal Premises Rent Control (Temporary Provisions) Act (17 of 1950), S. 12 (1) (i)** (Dec) 1187A

—**West Bengal Premises Tenancy Act (12 of 1950), S. 24**—Section is not retrospective but operates from the date when it came into force as it impinges on substantive rights of landlords and tenants and there is nothing in its language from which retrospectivity can be gathered (Dec) 1187B

Imports and Exports (Control) Act (18 of 1947), S. 5 (before its amendment in 1960)—Breach of condition of licence — It is not tantamount to breach of statutory order within meaning of S. 5 — Section as it stood cannot be construed with aid of Amending Act (Act 4 of 1960) (Jan) 110A

Income-tax Act (11 of 1922), S. 2 (4)—Words used in definition of “business” are of wide import, the underlying idea being of continuous exercise of an activity—*See* Income-tax Act (1922), S. 24 (2) (ii) (Nov) 940

—**Ss. 2 (4), 4** — “Adventure in the nature of trade” — Determination—Tests indicated — Calculation of profits — Stock-in-trade should be valued at beginning and end of accounting year (Nov) 1053

—**S. 2 (4A)** — Capital receipt or income receipt—Assessee entering into contract for purchase of stock-in-trade — Assessee forming partnership with another—Assessee later withdrawing from partnership and transferring his rights in contract of purchase—Amount received by assessee is revenue and not capital receipt — *See* Income-tax Act (1920), S. 3 (Oct) 859

—**Ss. 2 (6A), 4 and 10 (1)**—Assessee doing business in shares holding shares in companies as part of their stock-in-trade—Companies issuing bonus shares—Such shares do not ipso facto become accretions to assessee's stock-in-trade: I.T. Ref. No. 16 of 1948, D/- 23-3-1949 (Bom), **Overruled** — Sale of such shares by assessee — Sale proceeds held, on facts of case, as profits of share

Income-tax Act (contd.)

dealing business: A I R 1964 All 457, **Reversed** (Oct) 840A

—**S. 2 (11) (as it stood before its amendment by Finance Act of 1955)** — Expression “previous year” in S. 23A (1) — Interpretation of— (1963) 49 ITR 369 (Bom) **Partly Reversed**—*See* Income-tax Act (1922), S. 23A (1) Apr 292

—**S. 2 (11) (i) (a)**—Account in respect of income from undisclosed source—No accounts maintained—No option under S. 2 (11) (i) (a) exercised — Such income to be assessed on basis of financial year being previous year (May) 351A

—**Ss. 3, 4, 10 and 2 (4A)** — Capital receipt or income receipt — Assessee entering into contract for purchase of stock-in-trade — Assessee forming partnership with another — Assessee later withdrawing from partnership and transferring his rights in contract of purchase — Amount received by assessee is revenue and not capital receipt: (Oct) 859
 —**Ss. 3 and 26A** — Income derived by member of Hindu undivided family from firm having funds of such family—Such income is chargeable as income of Hindu family (Oct) 893

—**S. 3** — Assessee, a Hindu undivided family — Assessee through its karta D was partner of two firms—For assessment years 1959-60 and 1960-61, D was paid remuneration of Rs. 12,000/- — Remuneration was paid to D not because of family funds invested in partnership, but because of his personal qualification — Held there was no real or sufficient connection between investment of joint family funds and remuneration paid to D — Hence, remuneration paid to D was not assessable as income of Hindu undivided family—Case law discussed. (Oct) 927

—**Ss. 3, 4**—Word “individual”—Connotation—Hindu deity falls within meaning of that word and can be treated as unit of assessment (Nov) 1089

—**Ss. 3, 4**—Rule of diversion of income by an overriding title—Applicability—Amount of compensation paid by assessee, the selling agents to ex agents who were replaced by assessee — Absence of proof of precise terms of agreement between assessee and its principal — Payment was not by overriding title created either by act of parties or by operation of law — (1965) I I T J 93 (Cal), **Reversed** (Dec) 1160C

—**S. 4**—Assessee doing business in shares holding shares in companies as part of their stock-in-trade — Companies issuing bonus shares — Such shares do not ipso facto become accretions to assessee's stock-in-trade: I.T. Reference No. 16 of 1948 (Bom), **Over-**

Income-tax Act (contd.)

ruled—*See* Income-tax Act (1922), S. 2 (6A) (Oct) 840A

—*S. 4*—Capital receipt or income receipt — Assessee entering into contract for purchase of stock-in-trade — Assessee forming partnership with another — Assessee later withdrawing from partnership and transferring his rights in contract of purchase — Amount received by assessee is revenue and not capital receipt — *See* Income-tax Act (1922), S. 3 (Oct) 859

—*S. 4*—Income — Calculation of profits — Stock-in-trade should be valued at beginning and end of accounting year — *See* Income-tax Act (1922), S. 2 (4) (Nov) 1053

—*S. 4*—Hindu deity can be treated as unit of assessment — *See* Income-tax Act (1922), S. 3 (Nov) 1039

—*S. 4*—Rule of diversion of income by an overriding title—Applicability—Amount of compensation paid by assessee, the selling agents to ex agents who were replaced by assessee—Absence of proof of precise terms of agreement between assessee and its principal—Payment was not by overriding title created either by act of parties or by operation of law—(1965) 1 ITJ 93 (Cal), **Reversed**—*See* Income-tax Act (1922), S. 3 (Dec) 1160C

—*Ss. 4, 6* — Receipts arising from business — Disposal of part or whole of assets — Nature of realisation — Test — Sale of colliery after prospecting and developing — Income held taxable as business income (Dec) 1241A

—*Ss. 4 (1) (a) and 42 (3)* — Part B States (Taxation Concessions) Order (1950), Paragraphs 4 (1) (iii), 6, 6A and 7 — Assessee a firm in Bangalore appointed as sole agent for Ceylon by a tile manufacturing Company of Feroke in taxable territory—Agreement with purchaser at Colombo entered into in Bangalore—Lading bills obtained at Beypore (in taxable territory) and handed over to a Bank in Bangalore — Payments made to assessee by that Bank — Held, since profits were received in Part B State, it could not be said that entire profit accrued or arose within meaning of *S. 4 (1) (a)* in taxable territories other than Part B State — Business operations were carried out at three different places i. e., Bangalore, Feroke and Ceylon — Assessee was entitled to concession under Order (1950) for profits attributed towards business operations conducted in Bangalore and Ceylon — Apportionment of profits of business was called for pursuant to assessee's trading profit (Apr) 299

—*S. 5A (8)*—Income-tax (Appellate Tribunal) Rules (1946), R. 24 (as amended in 1948) — Rule not ultra vires *S. 5A (3)*—*See* Income-

Income-tax Act (contd.)

tax (Appellate Tribunal) Rules (1946), R. 24 (as amended in 1948) (Nov) 1068

—*S. 6*—Business — Sale of colliery after prospecting and developing — Income held taxable as business income—*See* Income-tax Act (1922), S. 4 (Dec) 1241A

—*S. 10* — Speculative losses cannot be set off against profits from any other business activity under *S. 10* in spite of first proviso to *S. 24 (1)* : AIR 1965 All 94, **Reversed**—*See* Income-tax Act (1922), S. 24 (1), First Proviso Expln. (1) (Mar) 209

—*S. 10*—Capital receipt or income receipt — Assessee entering into contract for purchase of stock-in-trade — Assessee forming partnership with another — Assessee later withdrawing from partnership and transferring his rights in contract of purchase — Amount received by assessee is revenue and not capital receipt — *See* Income-tax Act (1922), S. 3 (Oct) 859

—*S. 10*—Appointment of assessee firm as managing agent under contract of managing agency by company promoted by assessee firm—Termination of contract by company prematurely and assignment thereof to another company — Partners of assessee firm holding controlling shares in that company and also conducting its managing agency business in capacity of directors of that company — Managing agency business carried on by the assessee firm could not be said to be lost or destroyed to its individual partners — Compensatory amount received by assessee firm from company for termination of managing agency contract, therefore, was revenue receipt in course of its managing agency business, and hence, liable to income-tax (Nov) 932B

—*Ss. 10, 12*—Primary condition for application of Section 10—Held on scrutiny of all clauses of indenture of lease that intention of assessee-company was not to treat factory, etc. as commercial asset during subsistence of lease and therefore income arising from lease was liable to be assessed under Section 12 and not under Section 10 (Nov) 1062A

—*S. 10* — Business — Assessee dealer in shares—Issuance of bonus shares to assessee in respect of ordinary shares held by him—Bonus shares—Mode of valuation—I. T. Ref. No. 65 of 1954, D/- 27-4-1963 (Cal), **Reversed** (Dec) 1183

—*S. 10*—Income-tax Rules (1922), Rule 33—Claim of non-resident assessee for additional depreciation — Additional depreciation is a statutory allowance in determination of taxable profits (Dec) 1262B

—*S. 10(1)* — Assessee doing business in shares holding shares in companies as part of their stock-in-trade — Companies issuing

Income-tax Act (contd.)

bonus shares—Such shares do not ipso facto become accretions to assessee's stock-in-trade—I. T. Reference No. 16 of 1948 (Bom), **Overruled**—Sale of such shares by assesseees—Sale proceeds held on facts of case, as profits of share dealing business—AIR 1964 All 457, **Reversed**—See Income-tax Act (1922), S. 2 (6A) (Oct) 840A

—S. 10 (2)—Capital or revenue receipt—Question whether premium is capital or revenue receipt depends on facts and circumstances of each case and it is for authorities to show that facts exist which would make it revenue receipt — (1966) 1 I T J 824 (Cal), **Reversed** (Sep) 775

—S. 10 (2)—Construction of transactions—Taxing authority is entitled to determine true legal character of transaction but cannot displace legal effect of transaction by probing into 'substance of the transaction' — AIR 1956 Bom 415 and AIR 1959 Bom 150 and (1963) 49 ITR 927 (Ker) and (1964) 51 ITR 631 (Mad), **Overruled**; (1966) 1 ITJ 602 (Guj), **Reversed** (Sep) 812A

—Ss. 10 (2) and 23 (5) (a) (ii)—Assessee not carrying on any independent business of his own but receiving share of profits from several firms of which he was a partner — Such profits are liable to be included under his total income as his business income—Hence, they being business income, expenditure necessary for the purpose of earning that income and appropriate allowances are deductible therefrom under Section 10 (2) in determining his taxable income — I.T. Ref. No. 33 of 1952, D/- 2-6-1953 (Cal), **Overruled** (Oct) 852

—Ss. 10 (2), 12 (3) and (4) — Additional depreciation allowance in respect of new assets and development rebate—Clauses (vi-a) and (vi-b) of Section 10 (2) cannot be treated as integral part of clause (vi) of S. 10 (2) and cannot be read in S. 12 (3) and 12 (4) by implication (Nov) 1062B

—Ss. 10 (2) (vi) and (vi-a) — Income-tax Rules (1922), R. 33 — Assessee non-resident company engaged in shipping business — Computation of taxable business income—Profits of the business taxable under the Act and Rules are to be determined under R. 33 (Dec) 1262A

—S. 10 (2) (vi)—Assessee non-resident company—Computation of taxable business income—Observation of High Court that "no relief in any shape or form can be enjoyed by any assessee under the Income-tax Act in respect of a source of income unless the income from that source is taken into consideration for the purpose of that Act" when that was not the plea of the Commissioner

Income-tax Act (contd.)

held on facts was wrong—(1965) 57 ITR 774 (Cal), **Reversed** (Dec) 1262D

—S. 10 (2) (vii), *Proviso (ii) (as amended by Act 67 of 1949)* — Realisation sale — Excess over written down value is taxable — But if there be no sale, proviso has no application (Sep) 812B

—S. 10 (2) (vii), *2nd proviso*—Sale of assets of assessee effected for purpose of closing down business is assessable as profit — AIR 1965 Ker 222, **Reversed** (Oct) 859

—Ss. 10 (2) (xv) and (x) — Question whether expenditure was exclusively for purpose of business — Determination — Test — Assessee carrying on manufacture and sale of blankets—Assessment year 1948-1949—Commission paid to General Manager — Under circumstances held that entire amount of commission was one laid out or expended wholly and exclusively for purpose of business of assessee — (1963) 48 ITR 346 (All), **Reversed** (Aug) 609

—S. 10 (2) (xv)—Compensation for termination of managing agency — Claim for allowance under S. 10 (2) (xv) by assessee company — Burden of proof lay upon company to prove that expenditure was incurred wholly and exclusively for business of the company — Absence of reliable evidence to prove that managing agency was rendering any service—Removal of managing agency, not connected with business — Expenditure in paying compensation held could not be said to be made wholly and exclusively in the interest of the business of the company (Oct) 917B

—S. 10 (2) (xv)—Assessee selling agents in India for principal company in London for variety of goods such as chemicals, dyes, explosives, etc. — Amount paid by assessee as compensation to ex-agents whom it replaced—Absence of proof of exact terms and conditions of agreement between assessee and its principal in England—Amount held could not be said to be "expenditure laid out wholly and exclusively for the purpose of the business" under Section 10 (2) (xv)—(1965) 1 ITJ 93 (Cal), **Reversed** (Dec) 1160B

—S. 10 (2A) — Scope — When speculative loss or liability is treated as income or profit from business, profession or vocation, such income or profit can only be one arising from speculative business—(1935) I.T. Ref. No. 215 of 1931, D/- 14-1-1935 (Cal), **Reversed** (July) 572

—S. 12—Held on scrutiny of all clauses of indenture of lease that intention of assessee company was not to treat factory, etc., as commercial asset during subsistence of lease and therefore income arising from lease was

Income-tax Act (contd.)

liable to be assessed under Section 12 and not under Section 10 — *See* Income-tax Act (1922), S. 10 (Nov) 1062A

— *S. 12 (3) and (4)* — Clause (vi-a) and (vi-b) of Section 10 (2) cannot be treated as integral part of Clause (vi) of S. 10 (2) and cannot be read in Section 12 (3) and 12 (4) by implication — *See* Income-tax Act (1922), S. 10 (2) (Nov) 1062B

— *S. 18A* — Non-resident firm — Liability of agent appointed under S. 43 — He is not liable to pay advance tax under S. 18A — *See* Income-tax Act (1922), S. 43 (Apr) 319

— *Ss. 18A (3) and 23B* — Expression “any person who has not hitherto been assessed” cannot be interpreted to include a person who has only been provisionally assessed under S. 23B — Word “assessed” has to be read in its ordinary sense including every kind of assessment (July) 543A

— *S. 18A (3)* — Section cannot be interpreted in the light of Ss. 210 and 212 (3) of new Act — *See* Civil P. C. (1903), Preamble (July) 543B

— *Ss. 22 and 34* — Assessment for particular year completed — Assessee cannot file voluntary return for same year again to avoid notice under S. 34 — Submission of voluntary return no bar to issue of notice under S. 34 or under S. 148 of Act of 1961 (June) 496

— *S. 22* — Section 19 of Assam Agricultural Income-tax Act (9 of 1939) is *pari materia* with S. 22 — *See* Assam Agricultural Income-tax Act (9 of 1939), S. 19 (Oct) 831A

— *S. 23 (5) (a) (prior to its amendment by Finance Act 18 of 1956)* — Dissolution of registered partnership-firm — Assessment of partners under S. 23 (5) (a) — There can be no joint and several liability of all partners for payment of tax under S. 44 — *See* Income-tax Act (1922), S. 44 (Apr) 255

— *S. 23 (5) (a) (ii)* — Assessee not carrying on any independent business of his own but receiving share of profits from several firms of which he was a partner — Such profits are liable to be included under his total income as his business income — Hence, they being business income, expenditure necessary for the purpose of earning that income and appropriate allowance are deductible therefrom, under S. 10 (2) in determining his taxable income. Ref. No. 33 of 1952, D/- 2-6-1953 (Cal), Overruled — *See* Income-tax Act (1922), S. 10 (2) (Oct) 862

— *Ss. 23-A (1) and 2 (ii) (as it stood before its Amendment by Finance Act of 1955)* — Expression “previous year” in S. 23A (1) — Interpretation of — Assessee having two different sources of income, and two businesses having separate accounting years, may have two

Income-tax Act (contd.)

previous years — (1963) 49 ITR 269 (Bom), Partly Reversed (Apr) 292

— *S. 23A (4)* — Scope — Once tax is paid in respect of proportionate share of dividend deemed to be distributed, any actual distribution will not be liable to be taxed. ILR (1963) 2 All 325, Reversed (June) 501A

— *S. 23B* — Expression “any person who has not hitherto been assessed” in S. 18-A (3) does not include a person who has only been provisionally assessed under S. 23B — Word “assessed” has to be read in its ordinary sense including every kind of assessment — *See* Income-tax Act (1922), S. 18A (3) (July) 543A

— *Ss. 24 (1), First Proviso, Expln. (1), 10, 6* — Scope of proviso — Speculative losses cannot be set off against profits from any other business activity under S. 10 in spite of first proviso to S. 24 (1) — AIR 1965 All 94, Reversed (Mar) 209

— *S. 24 (1)* — Sale transaction on 1-10-1949 — Price finally settled in December 1949 resulting in loss to assessee — Year in which loss can be taken into account is account year 1949-50 for purposes of S. 24 (1) — Decision in I. T. Ref. No. 33 of 1960, D/- 29-5-1963 (Cal), Reversed (Dec) 1241B

— *Ss. 24 (2) (ii) and 2 (4)* — Assessee partner of two firms carrying on same business — One firm dissolved and assessee sustaining loss — Other firm carrying on business in next assessment year — Assessee is entitled to claim set off for loss under S. 24 (2) (ii) (Nov) 940

— *Ss. 24 (2) (as it stood prior to its amendment in 1955), 66* — Reference of question whether on facts and in circumstances of case, cloth business of assessee and its business in general section constituted same business within meaning of S. 24 (2) — Mixed question of law and fact — On question as referred High Court cannot examine correctness of conclusion of Tribunal on facts — Held the conclusion of Tribunal that transaction in cloth were part and parcel of a single business carried on by assessee and did not constitute a distinct business for purpose of S. 24 (2), was correct. I. T. Ref. No. 130 of 1961, D/- 26-3-1965 (Cal), Reversed (Nov) 946

— *S. 26* — Dissolution of Firm — Continuance of its business by newly constituted firm — Case falls under S. 26 and not under S. 44 — Newly constituted firm can be legally assessed to penalty under S. 28 for the default of the original firm. (1936) ILR 45 Pat 121, Reversed — *See* Income-tax Act (1922), S. 23 (Dec) 1352A

— *S. 26A* — Income derived by member of Hindu undivided family from firm having

Income-tax Act (contd.)

—S. 53 — Expression “at his instance” — It means “on his authority” — No statutory requirement that complaint petition itself must be filed by Inspecting Assistant Commissioner — Complaint by Income-tax Officer on being authorised by Inspecting Assistant Commissioner is not illegal (Aug) 701E

—S. 66—Reference of question whether on facts and circumstances of case different ventures carried on by assessee form same business for purpose of S. 24 (2) — Mixed question of law and fact—High Court cannot examine correctness of conclusion of Tribunal on facts — I. T. Ref. No. 130 of 1961, D/- 26-3-1965 (Cal), **Reversed** — See Income-tax Act (1922), S. 24 (2) (as it stood prior to its amendment in 1855) (Nov) 946

—S. 66 — High Court exercises purely advisory jurisdiction, has no appellate or revisional powers — See Income-tax (Appellate Tribunal) Rules (1946), R. 24 (as amended in 1948) (Nov) 1068

—S. 66 — Reference under — Questions not raised and argued before Tribunal cannot be answered in reference (Dec) 1352B

—S. 66(1) and (2)—Scope—Nature of High Court's jurisdiction — Conclusions of fact arrived at by Tribunal can be challenged only on the ground that they are not supported by legal evidence or are perverse. I. T. Ref. No. 73 of 1962, D/- 2-3-1966 (Bom), **Reversed** (June) 460

—S. 66 (1) — Finding of fact — Interference by High Court — Application by party challenging finding of fact is pre-requisite (Oct) 840B

—S. 66 (1) — Reference under S. 66 (1) — High Court cannot embark upon re-appraisal of evidence and arrive at finding of fact contrary to those of Appellate Tribunal — (1965) 1 ITJ 98 (Cal), **Reversed** (Dec) 1160A

—S. 66 (1), (2) and (4) — Scope — Questions of fact or those not incorporated in application under S. 66 (1) — High Court is incompetent to call statement of case — Exercise of power under S. 66 (4) is open only when Court is satisfied that statements in a case referred under sub-s. (1) or sub-s. (2) are not sufficient to enable it to determine question raised by that statement — Calling for statement of case — Its correctness can be challenged at hearing of reference (Oct) 917A

—S. 66A — Powers of Supreme Court — In appeal from order of High Court in Income-tax reference Supreme Court exercises only advisory jurisdiction and has only to answer question referred by the Tribunal (Dec) 1262C

Income-tax Act (43 of 1961), S. 2 (7)—Failure to satisfy tax due by Hindu undivided family

Income-tax Act (1961) (contd.)

— Manager cannot be deemed to be an assessee in default under the Act: (1966) 2 Andh L T 423 and ILR 1967 Andh Pra 729, **Reversed** — See Income-tax Act (1961), S. 222 (Aug) 682A

—S. 2 (31) — Word “person” in Ss. 276, 276-A and 277 is not used in the sense in which it is defined in S. 2 (31) — (1966) 2 Andh L T 423 and ILR (1967) Andh Pra 729, **Reversed** — See Income-tax Act (1961), S. 222 (Aug) 682A

—S. 2 (31) — Word “individual” — Connotation — Hindu deity falls within meaning of that word — See Income-tax Act (1922), S. 3 (Nov) 1089

—S. 28 — Accrued liability though not actually paid is permissible deduction under Income-tax Act and Wealth Tax Act — See Payment of Bonus Act (1965), S. 4 (Aug) 612D

—S. 29 — Accrued liability though not actually paid is permissible deduction under Income-tax Act and Wealth Tax Act — See Payment of Bonus Act (1965), S. 4 (Aug) 612D

—S. 33 — Available surplus — Development rebate — Deduction under S. 6, Payment of Bonus Act (1965) out of gross profits arrived under S. 4—Amount actually allowable as development rebate under S. 33, Income-tax Act, 1961 should be allowed as deduction—See Payment of Bonus Act (1965), S. 4 (Aug) 612C

—S. 34 — Available surplus — Development rebate — Deduction under S. 6, Payment of Bonus Act (1965) out of gross profits arrived under S. 4—Amount actually allowable as development rebate under S. 33, Income-tax Act, 1961 should be allowed as deduction — Tribunal commits an error in allowing only seventy five per cent of that amount contemplated by S. 34 (3), Income-tax Act as development rebate reserve — See Payment of Bonus Act (1965), S. 4 (Aug) 612C

—Ss. 64 (v) and 161 (2) — Settlement of assets under trust for benefit of minor children — Inclusion of income from assets in total income of settlor—Not barred by S. 161 (2) — AIR 1954 Bom 219 & 1960-40 ITR 377 (Mad), **Overruled** (Oct) 888B

—S. 68 — Account in respect of undisclosed income — No accounts maintained—No option under S. 2 (11) (i) (a) of 1922 Act exercised — Income to be assessed on basis of financial year being previous year — Position under new Act is the same — See Income-tax Act (1922), S. 2 (11) (i) (a) (May) 351A

—S. 72—Scope of assessment under S. 141 — Assessee claiming to deduct loss in res-

Income-tax Act (contd.)

pect of previous year in excess of loss certified — Income-tax Officer cannot adjudicate upon claim and disallow the same. AIR 1966 Raj 45, **Reversed**—*See* Income-tax Act (1961), S. 141 (June) 470A

—S. 80 — Scope of assessment under S. 141 — Assessee claiming to deduct loss in respect of previous year in excess of loss certified — Income-tax Officer cannot adjudicate upon claim and disallow the same. AIR 1966 Raj 45, **Reversed**—*See* Income-Tax Act (1961), S. 141 (June) 470A

—S. 140 (b)—Failure to satisfy tax due by Hindu undivided family—Enforcement of certificate under S. 222 — Manager is not liable to be arrested and detained in prison — Merely because manager is authorised to sign and verify return of income, he cannot be deemed to be an assessee — (1966) 2 An L T 423 and I L R 1967 Andh Pra 729, **Reversed**—*See* Income-tax Act (1961), S. 222 (Aug) 682A

—Ss. 141, 72, 80 — Scope of assessment under S. 141 — Assessee claiming to deduct loss in respect of previous year in excess of loss certified — I. T. O., cannot adjudicate upon claim and disallow the same — A I R 1966 Raj 45, **Reversed** (June) 470A

—S. 148 — Assessee cannot file voluntary return for same year again to avoid notice under S. 34—Submission of voluntary return no bar to issue of notice under S. 34 or under S. 148 of Act of 1961—*See* Income-tax Act (1922), S. 22 (June) 496

—S. 148—Reopening of assessment—Right to, barred by time under Income-tax Act (1922) at commencement of new I. T. Act — No revival of such right under S. 297 (2) (d) (ii) — *See* Income-tax Act (1961), S. 297 (2) (d) (ii) (Sep) 778

—Ss. 156, 220, 221, 222, 226 (3) and 297 (2) (j). — Tax liability for assessment year 1961-62 determined under Income-tax Act, 1922—Notice of demand under S. 156 of 1961 Act — Subsequent notice under S. 226 (3) including this tax liability is valid — For issue of notice under S. 226 (3) assessee need not be in default — Interpretation of S. 226 (3) leading to absurd result of nullifying S. 297 (2) (j) should be avoided—Procedure of new Act applicable mutatis mutandis to all cases contemplated by S. 297 (2) (j) — A I R 1968 Mys 258, **Reversed** (May) 408A

—S. 156 — Notice under S. 226 (3) issued after service of notice of demand under S. 156 — Fact that time fixed for payment in notice of demand had not expired cannot invalidate notice under S. 226 (3). A I R 1968 Mys 258, **Reversed** — *See* Income-tax Act (1961), S. 226 (3) (May) 408B

Income-tax Act (contd.)

—S. 161—Representative assessee—Income of trust property — Power of Income-tax Officer to assess — He may assess either representative assessee or person represented by him—*See* Income-tax Act (1961), S. 166 (Oct) 888A

—S. 161 (2) — Settlement of assets under trust for benefit of minor children — Inclusion of income from assets in total income of settlor — Not barred by S. 161 (2) — AIR 1954 Bom 219 and 1960-40 I T R 377 (Mad), **Overruled**—*See* Income-tax (1961), S. 64 (V) (Oct) 888B

—Ss. 166 and 161—Representative assessee — Income of trust property — Power of Income-tax Officer to assess—He may assess either representative assessee or person represented by him (Oct) 888A

—S. 210 — Section cannot be treated as a legislative exposition of S. 18A (3) of the old Act—*See* Civil P. C. (1908), Preamble (July) 543

—S. 210 (3) — There must be valid provisional assessment on basis of which advance tax is demanded (June) 470B

—S. 212 (3)—Section cannot be treated as a legislative exposition of S. 18A (3) of the old Act—*See* Civil P. C. (1908), Preamble (July) 543

—S. 220—Procedure of new Act applicable mutatis mutandis to all cases contemplated by S. 297 (2) (j)—AIR 1968 Mys 258, **Reversed** —*See* Income-tax Act (1961), S. 156 (May) 408A

—S. 220 (6) — Writ petition challenging that notice under S. 226 (3), Income-tax Act, was issued not in proper exercise of discretion — Writ petition merely stating that order under S. 220 (6) in treating the assessee in default was passed in exercise of discretion in arbitrary manner — In absence of specific particulars in writ petition to support allegation it is not open to High Court to go into that question—AIR 1968 Mys 258, **Reversed**—*See* Constitution of India, Art. 226 (May) 408C

—S. 220 (6)—Power of Appellate Tribunal to grant stay — Tribunal must be held to have the power as incidental or ancillary to its appellate jurisdiction particularly in view of S. 220 (6) and S. 246 — *See* Income-tax Act (1961), S. 254 (May) 430

—S. 221 — Procedure of new Act applicable mutatis mutandis to all cases contemplated by S. 297 (2) (j) — A I R 1968 Mys 258, **Reversed** — *See* Income-tax Act (1961), S. 156 (May) 408A

—S. 222 — Procedure of new Act applicable mutatis mutandis to all cases contemplated by S. 297 (2) (j)—A I R 1968 Mys 258,

Income-tax Act (contd.)**Reversed**—*See* Income-tax Act (1961), S. 156

(May) 408A

—Ss. 222, 140 (b), 282 (2), 2(7), 276, 276-A, 277, 2 (31), Sch. 2, Rr. 1 (b), 2, 16 and 78 — Failure to satisfy tax due by Hindu undivided family in enforcement of certificate under S. 222 — Manager is not liable to be arrested and detained in prison — Income assessed being one of Hindu undivided family, manager cannot be deemed assessee — Word “person” in Ss. 276, 276-A and 277 is not used in the sense in which it is defined in S. 2 (31) — (1966) 2 Andh L T 423 and ILR (1967) Andh Pra 729, **Reversed** (Aug) 682A

—S. 222—Arrest and detention of manager for tax due by Hindu undivided family — Two petitions by Manager under Art. 226 — High Court taking somewhat technical view in declining to allow contention of Manager that he was not so liable and about *res judicata* — Supreme Court in appeal by special leave, interfered — *See* Constitution of India, Art. 136 (Aug) 682B

—S. 226 (3) — Tax liability for assessment year 1961-62 determined under Income-tax Act, 1922 — Notice of demand under S. 156 of 1961 Act — Subsequent notice under S. 226 (3) including this tax liability is valid — For issue of notice under S. 226 (3), assessee need not be in default — Interpretation of S. 226 (3) leading to absurd result of nullifying S. 297 (2) (i) should be avoided — Procedure of new Act applicable *mutatis mutandis* to all cases contemplated by S. 297 (2) (i). A I R 1968 Mys 258, **Reversed** — *See* Income-tax Act (1961), S. 156 (May) 408A

—Ss. 226 (3) and 156—Notice under S. 226 (3) issued after service of notice of demand under S. 156 — Fact that time fixed for payment in notice of demand had not expired cannot invalidate notice under S. 226 (3). AIR 1968 Mys 258, **Reversed** (May) 408B

—S. 226 (3)—Writ petition challenging that notice under S. 226 (3), Income-tax Act was issued not in proper exercise of discretion — Writ petition merely stating that order under S. 220 (6) in treating the assessee in default was passed in exercise of discretion in arbitrary manner — In absence of specific particulars in writ petition to support allegation it is not open to High Court to go into that question. A I R 1968 Mys 258, **Reversed** — *See* Constitution of India, Art. 226 (May) 408C

—S. 246—Power of Appellate Tribunal to grant stay — Tribunal must be held to have the power as incidental or ancillary to its appellate jurisdiction particularly in view of S. 220 (6) and S. 246 — *See* Income-tax Act (1961), S. 254 (May) 430

Income-tax Act (contd.)

—Ss. 254, 255, 220 (6), 246—Scope—Appellate Tribunal has power to grant stay as incidental or ancillary to its appellate jurisdiction — It can exercise the power in most deserving and appropriate cases (May) 430

—S. 255 (5)—Power of Appellate Tribunal to grant stay — It is doubtful if power of stay can be spelt out from provisions of S. 255 (5) — Tribunal must be held to have the power as incidental or ancillary to its appellate jurisdiction particularly in view of S. 220 (6) and S. 246 — *See* Income-tax Act (1961), S. 254 (May) 430

—S. 276 — Default of Hindu undivided family in payment of tax — Karta cannot be arrested and detained in prison — Word “person” in S. 276 is not used in the sense in which it is defined in S. 2 (31). (1966) 2 An L T 423 and ILR (1967) Andh Pra 729, **Reversed** — *See* Income-tax Act (1961), S. 222 (Aug) 682A

—S. 276-A — Default of Hindu undivided family in payment of tax — Manager is not liable to be arrested and detained in prison — Word “person” in S. 276A is not used in the sense in which it is defined in S. 2(31), (1966) 2 Andh L T 423 and ILR (1967) Andh Pra 729, **Reversed** — *See* Income-tax Act (1961), S. 222 (Aug) 682A

—S. 277 — Default of Hindu undivided family in payment of tax — Manager is not liable to be arrested and detained in prison — Word “person” in S. 277 is not used in the sense in which it is defined in S. 2 (31) — (1966) 2 Andh L T 423, and ILR 1967 Andh Pra 729, **Reversed** — *See* Income-tax Act (1961), S. 222 (Aug) 682A

—S. 282 (2)—Failure to satisfy tax due by Hindu undivided family — Enforcement of certificate under S. 222—Manager is not liable to be arrested and detained in prison—Merely because notice under the Act can be served upon him when it is addressed to a Hindu undivided family and such service is treated as service upon Hindu undivided family, the manager cannot be deemed to be assessee — (1966) 2 Andh L T 423 and ILR 1967 Andh Pra 729, **Reversed** — *See* Income-tax Act (1961), S. 222 (Aug) 682A

—S. 297 (2)—Applicability — Proceedings under Income Tax Act (1922) pending at commencement of Income Tax Act (1961)—Right to prosecute in respect of such proceedings not taken away by new Income Tax Act — *See* General Clauses Act (1897), S. 6 (e) (Aug) 701C

—S. 297 (2) (d) (ii)—Assessment for particular year completed — Assessee cannot file voluntary return for same year again to void notice under S. 34 — Submission of voluntary return no bar to issue of notice under

Income-tax Act (contd.)

S. 34 or under S. 148 of Act of 1961.— See Income-tax Act (1922), S. 22 (June) 496

—Ss. 297 (2) (d) (ii) and 148 — Reopening of assessment — Right to, barred by time under old Income Tax Act (1922) at commencement of new Income-tax Act — No revival of such right under S. 297 (2) (d) (ii) (Sep) 778

—S. 297 (2) (j)—Interpretation of S. 226 (3) leading to absurd result of nullifying S. 297 (2) (j) should be avoided—Procedure of new Act applicable mutatis mutandis to all cases contemplated by S. 297 (2) (j). AIR 1968 Mys 253, **Reversed**— See Income-tax Act (1961), S. 156 (May) 408A

—Sch. 2, R. 1 (b) — Failure to satisfy tax due by Hindu undivided family — Manager cannot be deemed to be an assessee in default. (1966) 2 Andh L T 423 and ILR 1962 Andh Pra 729, **Reversed**—See Income-tax Act (1961), S. 222 (Aug) 682A

—Sch. 2, R. 2—Failure to satisfy tax due by Hindu undivided family — Manager cannot be deemed to be an assessee in default. (1966) 2 Andh L T 423 and ILR 1967 Andh Pra 729, **Reversed**—See Income-tax Act (1961), S. 222 (Aug) 682A

—Sch. 2, R. 16—Failure to satisfy tax due by Hindu undivided family — Manager cannot be deemed to be an assessee in default. (1966) 2 Andh L T 423 and ILR 1967 Andh Pra 729, **Reversed** — See Income-tax Act (1961), S. 222 (Aug) 682A

—Sch. 2, R. 73—Failure to satisfy tax due by Hindu undivided family — Manager cannot be deemed to be an assessee in default. (1966) 2 Andh L T 423 and ILR 1967 Andh Pra 729, **Reversed**—See Income-tax Act (1961), S. 222 (Aug) 682A

Income-tax (Appellate Tribunal) Rules (1946), R. 24 (as amended in 1948)—Validity — Rule is repugnant to provisions of S. 33 (4), Income-tax Act and hence ultra vires. AIR 1952 All 857 and AIR 1955 Mad 39, **Overruled** (Nov) 1068

Income-tax Rules (1922), R. 33 — Assessee non-resident Company engaged in shipping business — Computation of taxable business income—Profits of business are to be determined under R. 33 — See Income-tax Act (1922), S. 10 (2) (vi) and (vi-a) (Dec) 1262A

—R. 33 — Additional depreciation is a statutory allowance in determination of taxable profits — See Income-tax Act (1922), S. 10 (Dec) 1262B

Indian Police Service (Appointment by Promotion) Regulation (1955)

See under Civil Services

Indian Police Service (Regulation of Seniority) Rules

See under Civil Services

Industrial Disputes Act (14 of 1947), S. 2 (j) — Industry — Activity of Cricket Club of India is not an industry — It is members' self service institution — Various activities of the club considered — Order dated 30.6.1965 of Industrial Tribunal Maharashtra (I.-T.) No. 347 of 1964, **Reversed** (Apr) 276

—S. 2 (j) — Company — Shares held by Union Government, State Government and private individuals — Union Government being largest share holder nominating Company's director — Held, that the Company being registered under the Companies Act and governed by the provisions of that Act, it was a separate legal entity and could not be said to be either a Government, Corporation or an industry run by or under the authority of the Union Government — See Companies Act (1956), S. 2 (18) (Dec) 1306B

—S. 2 (p) — Settlement arrived at before conciliation officer, between management and association of workmen — Settlement is one as defined under S. 2 (p)—See Industrial Disputes Act (1947), S. 12 (3) (Dec) 1230A

—S. 2 (rr), Sch. 3, Item 1—Factory declared as an establishment under Bihar Shops and Establishments Act — Overtime payment to workmen—Bihar Shops and Establishments Act has no relevance in deciding the question of payment of overtime wages (Apr) 306B

—S. 2 (rr), Sch. 3, Item 1—Wages—Industry-cum-region principle of fixing minimum wages—Absence of other comparable concerns in same industry—Region-cum-industry principle laid down in AIR 1963 SC 1327 cannot be applied—Wage-structures of other industries in same region as are nearly similar to the concern should be taken into consideration (Nov) 976A

—S. 2 (rr), Sch. 3, Item 1—Wages—Casual worker cannot have same wages as permanent employee (Nov) 976C

—S. 2 (rr), Sch. 3, Item 1 — Increase in wages — Fact that payment of arrears of wages for a long period will cast heavy burden on employer is no consideration for giving effect to increase in wages from some later date (Nov) 976D

—S. 2 (s) — Employees are covered under the definition of workmen under S. 2 (s) — See Representation of the People Act (1951), S. 100 (1) (a) (Sep) 744A

—Ss. 10 (1), 15 and Sch. 3, Item 5 — Bonus—Full Bench formula for calculation of surplus laid down in 1950 L L J 1247 (FB) and approved in AIR 1959 S C 967 — Duty of Tribunal — Tribunal is expected to

Industrial Disputes Act (contd.)

decide dispute only as referred to it — Completed accounts of relevant years not available at time of reference — *Held*, claim for higher bonus could not be based on availability of surplus calculated according to Full Bench Formula (Nov) 976E

— *S. 10 (2)* — Trade Unions Act (1926), Ss. 6 (g), 28 (3), 29 and 30 (3)—Central Trade Union Regulations (1939), Regulation 9 — Dispute regarding workmen of one factory of Company represented by their Union, and the Company referred to Tribunal — Workmen represented by their registered Union whose membership was confined to workmen of that particular factory—Constitution of Union alleged to have been amended and name changed, before reference — Amendment making workmen of all the establishments in Bihar of the Company eligible of its membership — Amendment not effected according to provisions of Trade Unions Act — Effect of award does not extend to workmen of other factories. Ref. No. 32 of 1963, D/- 20-9-1964, Ind. Tri. Bihar, **Reversed**.

(April) 306A
— *Ss. 12 (3), 18 (3) and 2 (p)* — Settlement arrived at before conciliation officer, between management and association of workmen — Binding on workmen until validly terminated—Settlement by association held was in representative capacity (Dec) 1280A

— *S. 15* — Duty of Tribunal—Tribunal is expected to decide dispute only as referred to it — *See* Industrial Disputes Act (1947), *S. 10 (1)* (Nov) 976E

— *S. 17-A* — Tribunal has discretion to direct award to come into effect retrospectively from date of workers' demand

(March) 182C
— *S. 18 (3)* — Settlement arrived at before conciliation officer, between management and association of workmen — Binding on workmen until validly terminated — *See* Industrial Disputes Act (1947), *S. 12 (3)*

(Dec) 1280A
— *Ss. 23 and 24 and Sch. 2, Items 1 and 3* — Dismissal of workmen for participating in illegal strike — Order based on warning given in respect of previous strike in disregard of settlement — Dismissal held *mala fide* and vindictive (March) 235

— *Ss. 23 (c), 29, 24 and 26* — Strike envisaged by *Ss. 23 (c)* and 29 — Distinction pointed out — *Held*, on facts that strike in question was not in respect of one of the matters covered by settlement but in contravention of one of the clauses of settlement arrived at between management and workers' association and was illegal and punishable under *S. 29* and was not illegal under *S. 24* read with *S. 23 (c)* (Dec) 1280B

Industrial Disputes Act (contd.)

— *S. 24*—Dismissal of workmen for participating in illegal strike — Order based on warning given in respect of previous strike in disregard of settlement — Dismissal held *mala fide* and vindictive — *See* Industrial Disputes Act (1947), *S. 23*

(March) 235
— *S. 24* — *Held*, on facts that strike in question was in contravention of one of the clauses of settlement arrived at between management and workers' association and not on one of the matters covered by settlement and was illegal and punishable under *S. 29* and was not illegal under *S. 24* read with *S. 23 (c)*—*See* Industrial Disputes Act (1947), *S. 23 (c)* (Dec) 1280B

— *S. 25-FF* — Transfer of Government undertaking to a company—Workman thereof ceases to be Government servant and becomes workman of a company under *S. 25-FF*—*See* Representation of the People Act (1951), *S. 100 (1) (a)* (Sep) 744A

— *S. 25-FFF* — Closure of undertaking — Closure cannot be limited or restricted only to financial, economic or other considerations of like nature — Essence of matter is factum of closure by whatever reasons motivated—Question regarding closure of undertaking not considered by Tribunal in a proper manner — Revision of Tribunal set aside by Supreme Court—Industrial Dispute Case No. 1 of 1967, D/- 5-12-1967, (Orissa), **Reversed** (Jan) 90A

— *S. 25-FFF* — "On account of unavoidable circumstances" — Laying down of two pre-conditions in proviso to section is significant and must be given due effect — *Held*, closure of undertaking was not due to unavoidable circumstances beyond control of Management (Jan) 90B

— *Ss. 25-FF and 25-FFF* — Wages include compensation payable under *S. 25-FF*, Industrial Disputes Act — Authority under Payment of Wages Act in application under *S. 15 (2)* cannot entertain claim for compensation under *S. 25-FF* : (1967) 1 Lab L J 232 (Punj.), **Overruled**. — *See* Payment of Wages Act (1936, as amended by Act 68 of 1957), *S. 15 (2)* (July) 590

— *S. 26* — Distinction between *Ss. 26* and 29, pointed out—*See* Industrial Disputes Act (1947), *S. 23 (c)* (Dec) 1280

— *S. 29* — Strike envisaged by *Ss. 23 (c)* and 29 — Distinction pointed out — *See* Industrial Disputes Act (1947), *S. 23 (c)* (Dec) 1280B

— *Ss. 33 (5) and 33 (2) (b)* — Powers of Tribunal — Tribunal can disregard findings of Enquiry Officer if they are perverse—Test of perversity (Nov) 983A

Industrial Disputes Act (contd.)

—S. 33 (5) — Powers of Tribunal — It cannot sit in judgment over view taken by Enquiry Officer about value to be attached to evidence of witnesses (Nov) 983B

—S. 33-A—Jurisdiction of authority under S. 36, Bihar Shops and Establishments Act (8 of 1954) is not a limited jurisdiction as in cases falling under S. 33-A : A I R 1964 Pat 180, **Overruled** — See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 26 (Nov) 992C

—S. 33-C (2)—Application claiming computation of benefit for overtime work and work done on weekly off days at certain rates — Rates pleaded in application not disputed by employer — Jurisdiction of Labour Court to entertain application not barred by S. 20 (1), Minimum Wages Act (Dec) 1335B

—S. 33-C (2)—Application under Art. 137, Limitation Act, 1963 does not apply : 70 Bom L R 500, **Overruled** — See Limitation Act (1963), Art. 137 (Dec) 1335C

—Sch. 2, Item 1 — Dismissal of workmen for participating in illegal strike — Order based on warning given in respect of previous strike in disregard of settlement — Dismissal held *mala fide* and vindictive—See Industrial Disputes Act (1947), S. 23 (March) 235

—Sch. 2, Item 3 — Dismissal of workmen for participating in illegal strike — Order based on warning given in respect of previous strike in disregard of settlement — Dismissal held *mala fide* and vindictive—See Industrial Disputes Act (1947), S. 23 (March) 235

—Sch. 2, Item 3—Workman charge-sheeted for "acts of misconduct" — Findings of enquiry officer that acts of misconduct charged were proved—Order of discharge passed in consequence — It cannot be argued that the order was one of discharge simpliciter and not by way of punishment (Nov) 992D

—Sch. 2, Item 6—Domestic enquiry—Victimisation — Discrimination — Strike by workers — Management dismissing three workers for misconduct by incitement, intimidation and riotous and disorderly behaviour considering them as 'very grave in nature' — No action was taken for striking or stopping or for loitering about in company's premises as a large number of 'misguided' workmen had stopped work. Held on facts that once a misconduct graver than that of rest of the employees was found proved against those workers and for which punishment was dismissal, victimisation could not be attributed to management — Having been found to be leaders of crowd,

Industrial Disputes Act (contd.)

action taken against them could not on any principle be regarded as discriminatory or unequal—(Constitution of India, Art. 14) (Dec) 1280D

—Sch. 3, Item 1 — Concept of minimum wages takes into account the prevailing cost of essential commodities—Linking up scales of minimum wage with cost of hiring is not alien to concept of minimum wage — See Minimum Wages Act (1948), S. 4 (2) (Mar) 182A

—Sch. 3, Item 1—In fixing minimum wage incapacity of management to pay and carry on business, is no consideration—See Minimum Wages Act (1948), S. 3 (Mar) 182B

—Sch. 3, Item 1 — Factory declared as an establishment under Bihar Shops and Establishments Act—Overtime payment to workmen — Bihar Shops and Establishments Act has no relevance in deciding the question of payment of overtime wages—See Industrial Disputes Act (14 of 1947), S. 2 (rr) (April) 306B

—Sch. 3, Item 1 — Wages — Industry-cum-region principle of fixing minimum wages — Absence of other comparable concerns in same industry — Principle cannot be applied — See Industrial Disputes Act (1947), S. 2 (rr) (Nov) 976A

—Sch. 3, Item 1 — Casual worker cannot have same wages as permanent employee—See Industrial Disputes Act (1947), S. 2 (rr) (Nov) 976C

—Sch. 3, Item 1—Increase in wages—Giving effect to — Consideration of burden on employer — See Industrial Disputes Act (1947), S. 2 (rr) (Nov) 976D

—Sch. 3, Item 2 — Revision of dearness allowance, claim for—Considerations (May) 360

—Sch. 3, Item 2 — Dearness allowance — Tribunal has discretion whether or not to link dearness allowance with price index (Nov) 976B

—Sch. 3, Item 4—Trade Unions Act (1926) (as amended by Act 45 of 1947), S. 28K—Special leave with pay to workmen who are Union's representatives to attend meeting of executive body of Union and federation of I. N. T. U. C. — Demand held not justified. Ref. No. 32 of 1963, D/- 20-9-1964, Ind. Tri. Bihar, **Reversed** (Apr) 306C

—Sch. 3, Item 5—Gratuity—Concept of — Qualifying period should be fairly long — Ten years' service is usual, though no hard and fast rule can be laid down—Qualifying period in case of termination of service — Criterion for fixing (Mar) 182D

—Sch. 3, Item 5 — Bonus — Completed accounts of relevant years not available at time of reference — Claim for higher bonus

Industrial Disputes Act (contd.)

cannot be based on availability of surplus—
See Industrial Disputes Act (1947), S. 10 (1)
(Nov) 976E

—Sch. 3, Item 5; Sch. 2, Item 6 — Bonus

—Payments in past neither uniform nor connected with any festival — Payments held neither as implied condition of service, nor as customary or traditional bonus (Nov) 998

Industrial Employment (Standing Orders) Act (20 of 1946), Pre.—Object of Act

—Is to require employers to define with certainty conditions of service in their establishments and to reduce them to writing and to get them compulsorily certified with a view to avoid unnecessary industrial disputes

(July) 513B

—Ss. 4, 6 and 10—Effect of amendment by Act 36 of 1956—Act gave individual workman right to contest draft standing orders or to apply for their modification in addition to existing right to raise industrial dispute

(July) 513C

—S. 4—Scope — Certified standing orders — Modification of — Existence of new circumstances not a condition precedent to exercise of jurisdiction under S. 10 (2)—See Industrial Employment (Standing Orders) Act (20 of 1946 as amended by Act 36 of 1956), S. 10

(July) 513D

—S. 4 — Modification of certified Standing Orders under Industrial Employment (Standing Orders) Act—Question as to fairness and reasonableness of modifications has been left by Legislature to the authorities empowered under the Act—Supreme Court would not be justified in interfering with conclusions of authorities under the Act unless an important principle of industrial law requiring elucidation is involved — See Constitution of India, Art. 136 (July) 513F

—Ss. 4, 6 and 10—Modification of Standing Order requiring giving of reasons in cases of discharge of workman simpliciter—Modification is fair and reasonable and should not be interfered with under Art. 136

(July) 513G

—Ss. 4 and 10—Modification of Standing Order requiring the giving of second show cause notice at stage of imposing punishment of removal cannot be considered as fair or reasonable and should be set aside under Art. 136—To import such a requirement from Art. 311 in industrial matters is neither necessary nor proper and would be equating industrial employees with Civil servants

(July) 513H

—S. 6—Effect of amendment by Act 36 of 1956—Act gave individual workman right to contest draft standing orders or to apply

Employment (Standing Orders) Act (contd.)

for their modification in addition to existing right to raise industrial dispute—See Industrial Employment (Standing Orders) Act (20 of 1946), S. 4

(July) 513C

—S. 6—Scope—Certified Standing Orders

—Modification of — Existence of new circumstances not a condition precedent to exercise of jurisdiction under S. 10 (2) — See Industrial Employment (Standing Orders) Act (20 of 1946 as amended by Act 36 of 1956), S. 10

(July) 513D

—S. 6—Principle of res judicata—Applicability to industrial matters — Proceedings for modification of standing orders under Industrial Employment (Standing Orders) Act—It is doubtful whether principles analogous to res judicata can properly be applied to such proceedings—See Civil P. C. (1908), S. 11

(July) 513E

—S. 6—Modification of certified Standing Orders under Industrial Employment (Standing Orders) Act — Question as to fairness and reasonableness of modifications has been left by Legislature to the authorities empowered under the Act—Supreme Court would not be justified in interfering with conclusions of authorities under the Act unless an important principle of industrial law requiring elucidation is involved — See Constitution of India, Art. 136 (July) 513I

—S. 6 — Modification of standing order requiring giving of reasons in cases of discharge of workman simpliciter — Modification is fair and reasonable and should not be interfered with under Art. 136 of Constitution—See Industrial Employment (Standing Orders) Act (20 of 1946), S. 4 : (July) 513G

—S. 10 — Effect of amendment by Act 36 of 1956—Act gave individual workman right to contest draft standing orders or to apply for their modification in addition to existing right to raise industrial dispute — See Industrial Employment (Standing Orders) Act (20 of 1946), S. 4

(July) 513C

—Ss. 10, 4, 6, 11 and 12—Scope—Certified standing orders — Modification of — Existence of new circumstances not a condition precedent to exercise of jurisdiction under S. 10 (2)

(July) 513D

—S. 10 — Principle of res judicata — Applicability to industrial matters — Proceedings for modification of standing orders under Industrial Employment (Standing Orders) Act — It is doubtful whether principles analogous to res judicata can properly be applied to such proceedings—See Civil P. C. (1908), S. 11

(July) 513E

—S. 10—Modification of certified standing Orders under Industrial Employment (Standing Orders) Act — Question as to fairness

Industrial Employment (Standing Orders) Act
(*contd.*)

and reasonableness of modifications has been left by Legislature to the authorities empowered under the Act—Supreme Court would not be justified in interfering with conclusions of authorities under the Act unless an important principle of industrial law requiring elucidation is involved—*See* Constitution of India, Art. 135 (July) 513F

—S. 10—Modification of Standing Order requiring giving of reasons in cases of discharge of workman simpliciter—Modification is fair and reasonable and should not be interfered with under Art. 136 of Constitution—*See* Industrial Employment (Standing Orders) Act (20 of 1946), S. 4 (July) 513G

—S. 10—Modification of standing order requiring the giving of second show cause notice at stage of imposing punishment of removal cannot be considered as fair or reasonable and should be set aside under Art. 135—*See* Industrial Employment (Standing Orders) Act (20 of 1946), S. 4

(July) 513H

—S. 11—Scope—Certified standing orders—Modification of—Existence of new circumstances not a condition precedent to exercise of jurisdiction under S. 10 (2)—*See* Industrial Employment (Standing Orders) Act (20 of 1946 as amended by Act 36 of 1956), S. 10

(July) 513D

—S. 12—Certified standing orders—Modification of—Existence of new circumstances not a condition precedent to exercise of jurisdiction under S. 10 (2)—*See* Industrial Employment (Standing Orders) Act (20 of 1946 as amended by Act 36 of 1956), S. 10

(July) 513D

Intermediate Education Act (U.P. Act 2 of 1921)
See under Education.**Jammu and Kashmir Preventive Detention Act**
(13 of 1964)*See* under Public Safety.

J. & K. Representation of the People Act (4 of 1957), S. 47 (2) (a)—Filing of nomination paper—Failure to subscribe oath or affirmation before authorized officer—Nomination paper is liable to be rejected—*See* Constitution of Jammu and Kashmir (1956), S. 51 (a)

(Dec) 1111

Kerala Buildings Tax Act (19 of 1961), S. 4 and Sch.—Constitutional validity—Violates equality clause of the Constitution and is ultra vires

(May) 378

—Sch.—Constitutional validity of S. 4 read with Schedule—Violates equality clause of the Constitution and is ultra vires—*See* Kerala Buildings Tax Act (19 of 1961), S. 4

(May) 37S

Kerala General Sales Tax Act (15 of 1963)
See under Sales Tax.

Kerala Motor Vehicles (State Transport Undertaking) Rules (1960), R. 3—Notified routes and existing routes having common road sectors—Services of operators on existing routes to public not interfered with—Scheme is one of partial exclusion—No infirmity in scheme because it is in Form II—*See* Motor Vehicles Act (1939), S. 68-C (Apr) 273A

—R. 3—Scheme in partial exclusion of existing road transport service cannot be in Form IV (Apr) 273C

Kerala University Act (14 of 1957)*See* under Education.

Land Acquisition Act (1 of 1894), S. 3 (a)—Acquisition of land with orchards thereon—Determination of value of trees does not fall under S. 23 (1) secondly—AIR 1964 Madh Pra 196, **Reversed**—*See* Land Acquisition Act (1 of 1894), S. 23 (1) & (2) (Mar) 255A

—Ss. 23 (1) and (2) and 3 (a)—Acquisition of land with orchards thereon—Value of trees, determination of—Value of trees does not fall under S. 23 (1) secondly—Land includes trees standing thereon, which are component parts of land—Value of trees is ascertained only for determining the market value of land sought to be acquired—On the value of land as determined the court is bound to allow 15 per cent allowance provided by S. 23 (2)—AIR 1964 Madh Pra 196, **Reversed** (Mar) 255A

—S. 23 (2)—Award of solatium—S. 23 (2), applies to acquisition proceedings under M. B. Municipal Corporation Act—*See* Municipalities—M. B. Municipal Corporation Act (23 of 1956), S. 387 (July) 579A

Letters Patent (Bom), Cl. 15—Points on which appeal may be heard—Points decided by interlocutory order of Single Judge can be canvassed—Section 105 (2), Civil P. C. does not apply (July) 560B

—(Mad.), Cl. 12—Decree-holder creditors applying for rateable distribution of assets held by executing court in respect of another decree passed by High Court cannot challenge the decree under which the assets were held, as invalid, on the ground that High Court had no territorial jurisdiction under Cl. 12 of Letters Patent to pass decree for sale of properties outside its local limits of its ordinary original jurisdiction—*See* Civil P. C. (1908), S. 21 (Dec) 1147D

Limitation Act (9 of 1908), S. 3—Amendment of plaint—Suit originally instituted mis-describing the plaintiff—Amendment of plaint substituting real plaintiff—No question of limitation arises—Plaint must be deemed on such amendment to have been

Limitation Act (1908) (contd.)

instituted in the name of the real plaintiff, on the date on which it was originally instituted (Dec) 1267B

—*S. 5*—Appeal against order awarding compensation—Order passed on 23-2-1958—Application for judgment made on 24-2-58 without requisite fees—Return of application on 11-3-58 requiring applicant to deposit necessary fees—Application with fees filed on 12-3-58—Judgment copy given on 18-3-58—Appeal filed on 2-5-1958, held delayed by only 1 day, and could not be dismissed as time barred. Misc. Civil Petn. No. 64 of 1961, D/- 13-11-1962 (M. P.), **Reversed**—*See* Tenancy Laws—M. B. Abolition of Jagirs Act (28 of 1951), S. 29 (Nov) 953

—*S. 13, Article 95*—Scope and applicability—Suit for obtaining relief on ground of fraud—Article 95 attracted—Fraud committed on 7-1-1924 and discovered on 16-4-1924—Defendant outside India for several months in 1924 and 1926—Suit instituted on 14-9-1927 in Court at D in India—Defendant residing at place within jurisdiction of Court on that date—Held Court at D had jurisdiction to entertain and try suit, though cause of action for suit arose outside India—Suit was not barred by limitation—AIR 1928 Mad 1098 and AIR 1944 Mad 437 **held rightly overruled** by AIR 1955 Mad 96 (FB) (July) 552B

—*S. 14*—Applicability—Suit for compensation against Bengal and Assam Railway Administration situated beyond Original Side jurisdiction of Calcutta High Court—Cause of action arising at Sealdah, a place on the border line of the territorial limits of jurisdiction of Calcutta High Court on Original Side—Plaintiff suing for relief wrongly in Calcutta High Court on Original Side—Proceeding commenced and prosecuted bona fide—Plaintiff held entitled to the benefit of the provision under S. 14 (Jan) 23B

—*Art. 95*—Suit for obtaining relief on ground of fraud—Art. 95 attracted—AIR 1928 Mad 1088 and AIR 1944 Mad 437 **held rightly overruled** by AIR 1955 Mad 96 (FB)—*See* Limitation Act (1908), S. 13 (July) 552B

—*Arts. 120 and 144*—Suit for declaration that company was not wound up and that properties acquired by new company were in trust for the plaintiff's company and a decree for vesting or retransferring the properties to plaintiff's company—Suit is governed by Article 120 and not by Article 144—Cause of action arising in 1939—Suit brought after six years is barred (Oct) 843B

—*Art. 141*—Adverse possession against Hindu widow not adverse against next reversioners—Suit by reversioner to recover pos-

Limitation Act (1908) (contd.)

session—Starting point of limitation is widow's death—AIR 1964 Pat 254, **Reversed** (Mar) 204C

—*Art. 144*—Suit for declaration that company was not wound up and that properties acquired by new company were in trust for the plaintiff's company and a decree for vesting or retransferring the properties to plaintiff's company—Suit is governed by Art. 120 and not by Art. 144—Cause of action arising in 1939—Suit brought after six years is barred—*See* Limitation Act (1908), Art. 120 (Oct) 843B

—*Art. 149*—Suit for declaration of title to disputed plots and for correction of entry in settlement records for showing status of plaintiff as that of "Raiyat Sarkar"—Plaintiffs' failure to establish their title by prescription for statutory period of sixty years—Suit brought by plaintiff against State Government must be dismissed—First Appeal No. 217 of 1959, D/- 16-4-1963 (M. P.), **Reversed** (Dec) 1256B

—*Art. 158*—Application under Arbitration Act except under Ss. 8 and 20—Save as provided in Arts. 158 and 178, there is no limitation for such application—*See* Arbitration Act (1940), S. 8 (June) 474

—*Art. 178*—Application under Arbitration Act except under Ss. 8 and 20—Save as provided in Arts. 158 and 178 there is no limitation for such application—*See* Arbitration Act (1940), S. 8 (June) 474

—*Art. 181*—Application under—There is no prescribed period of limitation—Art. 181, Limitation Act does not apply—AIR 1965 All 269, **Reversed**—*See* Arbitration Act (1940), S. 8 (June) 474

Limitation Act (36 of 1963), S. 5—Scope—Words "sufficient cause"—Meaning—On facts, application under S. 5 was allowed and delay in filing appeal was condoned—(1968) 70 Pun LR (D) 332, **Reversed** (July) 575B

—*S. 29*—Election petition—Necessary party not joined within limitation for filing petition—High Court has no power to allow addition after the limitation—S. 29 of Limitation Act has no application—*See* Representation of the People Act (1951 as amended in 1966), S. 81 (Oct) 872A

—*S. 29 (2)*—Election petitions—Amendment of petition and joining of parties—Question whether Ss. 4 to 25 of Limitation Act apply (Quære)—*See* Representation of the People Act (1951), S. 83 (Aug) 677B

—*Art. 137*—Application under other Acts—Application under Section 33C (2), Industrial Disputes Act—Article does not apply. (1968) 70 Bom LR 104, **Overruled**: (Dec) 1335

Madhya Bharat Abolition of Jagirs Act (28 of 1951)—See under Tenancy Laws.

Madhya Bharat Municipal Corporation Act (23 of 1956)—See under Municipalities.

Madhya Bharat Sales Tax Act (30 of 1950)—See under Sales Tax.

Madhya Pradesh General Sales Tax Act (2 of 1959)—See under Sales Tax.

M. P. General Sales Tax Rules (1959)—See under Sales Tax.

Madras City Tenants Protection Act (3 of 1922)—See under Tenancy Laws.

Madras Cultivating Tenants Protection Act (25 of 1955)—See under Tenancy Laws.

Madras Estates Land Act (1 of 1908)—See under Tenancy Laws.

Madras General Sales Tax Act (1 of 1959)—See under Sales Tax.

Maharashtra Co-operative Societies Act (24 of 1961)—See under Co-operative Societies.

Marumakkattayam Law—Tarwad—Devolution of interest—On death, interest of member devolves by survivorship (Nov) 1094D

Maxims—"Expressum facit, cessare tacitum"—See Constitution of India, Pre (June) 453B

Mineral Concession Rules (1949), R. 40—Rule has no application to statutory leases created under S. 10 of Bihar Land Reforms Act (30 of 1950) (Mar) 177B

Minimum Wages Act (11 of 1948), Ss. 3, 4, 6—In fixing minimum wage incapacity of management to pay and carry on business is no consideration (Mar) 182B

—S. 4—In fixing minimum wage incapacity of management to pay and carry on business, is no consideration—See Minimum Wages Act (1948), S. 3 (Mar) 182B

—S. 4(2)—Concept of minimum wage takes into account the prevailing cost of essential commodities—Linking up scales of minimum wage with cost of hiring is not alien to concept of minimum wage (Mar) 182A

—S. 5—Wages—Industry-cum-region principle of fixing minimum wages—Absence of other comparable concerns in same industry—Principle to be applied—See Industrial Disputes Act (1947), S. 2 (rr) (Nov) 976A

—S. 5—Casual worker cannot have same wages as permanent employee—See Industrial Disputes Act (1947), S. 2 (rr) (Nov) 976C

—S. 6—In fixing minimum wage incapacity of management to pay and carry on business, is no consideration—See Minimum Wages Act (1948), S. 3 (Mar) 182B

—S. 14—Factory declared as an establishment under Bihar Shops and Establishments

Minimum Wages Act (contd.)

Act—Overtime payment to workmen—Bihar Shops and Establishments Act has no relevance in deciding the question of payment of overtime wages—See Industrial Disputes Act (14 of 1947), S. 2 (rr) (Apr) 306B

—S. 20—Application for computation of benefit for overtime and work done on weekly off days at certain rates—Rates pleaded in application not disputed—Section cannot be invoked—Powers of authority under section indicated—See Industrial Disputes Act (1947), S. 33C (2) (Dec) 1335B

Motor Vehicles Act (4 of 1939), Ss. 2 (3), 2 (19), 2 (20), 2 (22), 2 (23), 42 (1), 60 (1) (c)—Scope—Person in whose favour permit has been granted—Need not necessarily be owner of vehicle covered by it—Act does not bar benami transactions—Specific Relief Act (1877), S. 55—Suit by owner of vehicles against benamidar thereof for declaration and mandatory injunction—Relief can be granted to effectuate transfer of permits—AIR 1967 Mad 100, **Reversed**. AIR 1963 Mad 413 and AIR 1962 Andh Pra 14, **Overruled** (June) 493A

—S. 2(19)—Person in whose favour permit has been granted need not necessarily be owner of vehicle covered by it. AIR 1967 Mad 100, **Reversed**. AIR 1963 Mad 413 and AIR 1962 Andh Pra 14, **Overruled**—See Motor Vehicles Act (1939), S. 2 (3) (June) 493A

—S. 2(20)—Person in whose favour permit has been granted—Need not necessarily be owner of vehicle covered by it. AIR 1967 Mad 100, **Reversed**. AIR 1963 Mad 413 and AIR 1962 Andh Pra 14, **Overruled**—See Motor Vehicles Act (1939), S. 2 (3) (June) 493A

—S. 2(22)—Person in whose favour permit has been granted need not necessarily be owner of vehicle covered by it. AIR 1967 Mad 100, **Reversed**. AIR 1963 Mad 413 and AIR 1962 Andh Pra 14, **Overruled**—See Motor Vehicles Act (1939), S. 2 (3) (June) 493A

—S. 2(23)—Person in whose favour permit has been granted need not necessarily be owner of vehicle covered by it. AIR 1967 Mad 100, **Reversed**. AIR 1963 Mad 413 and AIR 1962 Andh Pra 14, **Overruled**—See Motor Vehicles Act (1939), S. 2 (3) (June) 493A

—S. 42(1)—Person in whose favour permit has been granted need not necessarily be owner of vehicle covered by it. AIR 1967 Mad 100, **Reversed**. AIR 1963 Mad 413, **Overruled**—See Motor Vehicles Act (1939), S. 2 (3) (June) 493A

—Ss. 46, 48, 58 (1) (a)—Substantive permit not mentioning period for which it was granted, is not invalid—Spl. Civil Appls. Nos. 575 to 579, 634, 540 and 570 to 572 of 1967, D/- 20.10.1967 (Bom), **Reversed**

(Apr) 329A

Motor Vehicles Act (contd.)

—S. 47—Route includes a road or physical track—See Motor Vehicles Act (1939), S. 68C (Apr) 273A

—Ss. 47 (3) and 57 (3)—Grant of stage carriage permit—Procedure—Question of number of stage carriages on the route cannot be decided while entertaining application for stage carriage permit (Dec) 1130

—S. 48—Substantive permit not mentioning period for which it was granted, is not invalid—See Motor Vehicles Act (1939), S. 46 (Apr) 329A

—S. 48—Substantive permit not mentioning date of commencement is not illegal. Spl. C. A. Nos. 575 to 596, 634, 540, 570 to 572 of 1967, D/- 20-10-1967 (Bom), **Reversed** (Apr) 329B

—S. 48—Order granting permit not giving date of commencement—Later order giving such date, is not an order of review—Civil P. C. (1908), O. 47, R. 1 (Apr) 329C

—S. 48—Writ Petitions by private operators against order of R. T. A. granting permit to State Road Transport Corporation—Enforcement of order of R. T. A. stayed pending Writ Petition and R. T. A. directed to maintain status quo pending writ petitions—Subsequent compromise between private operators and Road Transport Corporation—Orders formerly passed by R. T. A. but kept pending till writ petitions were withdrawn—Order held conditional and not in violation of High Court order—Order of R. T. O. held not invalid. Spl. C. A. Nos. 575 to 596, 634, 540, 570 to 572 of 1967, D/- 20-10-1967 (Bom), **Reversed** (Apr) 329D

—S. 57—Bombay Motor Vehicles Rules (1940), Rr. 67 and 68—Orders of R. T. A. in form of resolution at meeting at which parties were present—Resolution communicated to parties—Reasons for order given in the communication—The procedure did not contravene any provision of law or rule—There is no provision either in the Act or the Rules which requires the R. T. A. to give a written decision with regard to the grant of a stage carriage permit. Nor is there anything in the Act or the Rules which by necessary implication throws a duty upon the R. T. A. to give a written judgment in each case and to give reasons thereof along with the written decision. Spl. C. A. Nos. 575 to 596, 634, 540, 570 to 572 of 1967, D/- 20-10-1967 (Bom), **Reversed** (Apr) 329F

—S. 57 (3)—Question of number of stage carriages on the route—Cannot be decided while entertaining application for stage carriage permit—See Motor Vehicles Act (1939), S. 47 (3) (Dec) 1130

—S. 58 (1) (a)—Substantive permit not

Motor Vehicles Act (contd.)

mentioning period for which it was granted, is not invalid—See Motor Vehicles Act (1939), S. 46 (Apr) 329A

—S. 60 (1) (c)—Person in whose favour permit has been granted—Need not necessarily be owner of vehicle covered by it—Act does not bar benami transactions. AIR 1967 Mad 100, **Reversed**. AIR 1962 Andh Pra 14, **Ovrruled**—See Motor Vehicles Act (1939), S. 2 (3) (June) 493A

—Ss. 68-C, 68-D, S. 68 (f) (2) (iii) and 47—Kerala Motor Vehicles (State Transport Undertaking) Rules (1960), R. 3—Notified routes and existing routes having common road sectors—Services of operators on existing routes to public not interfered with—Scheme is one of partial exclusion—No infirmity in scheme because it is in Form II (Apr) 273A

—S. 68-D—Notified routes and existing routes having common road sectors—Services of operators on existing routes to public not interfered with—Scheme is one of partial exclusion—No infirmity in scheme because it is in Form II—See Motor Vehicles Act (1939), S. 68C (Apr) 273A

—S. 68-E—Section does not require that new scheme should expressly say that it cancels or modifies earlier schemes—New scheme modifying earlier schemes by excluding private operators from notified routes proposed and approved after following procedure laid down in Ss. 68-C and 68-D—Condition of 68-E is thereby satisfied and the earlier scheme will stand modified by implication pro tanto on promulgation of new scheme (Apr) 273B

—S. 68 (F) (2) (III)—Notified routes and existing routes having common road sectors—Services of operators on existing routes to public not interfered with—Scheme is one of partial exclusion—No infirmity in scheme because it is in Form II—See Motor Vehicles Act (1939), S. 68C (Apr) 273A

MUNICIPALITIES

—Ajmer Marwar Municipalities Regulation (6 of 1925), S. 233—Civil P. C. (1908), S. 80

—Applicability—Suit against public officer in respect of 'act' done in an official capacity—'Act' includes illegal omissions—Omission must entail penal consequence for public officer—Non-discharge of official duty by official concerned must amount to illegal omission—Suit against Municipal Committee claiming amount as surcharge due under Notification issued under S. 3 (2) of Bombay Electricity (Surcharge) Act—Notice under S. 233 of Regulation is not necessary—F. A. No. 67 of 1956 D/- 22-9-1964 (Raj) **Reversed** (Mar) 227A

Municipalities (contd.)

—**Bombay Municipal Corporation Act (3 of 1888)**, Ss. 146, 147, 154, 155 and 156—Open land leased on monthly basis—Lessee constructing building thereon—Composite assessment of property tax under S. 146 — Primary liability is on owner of land (Nov) 1048A
 —S. 147—Lease of open land—Lessee's building thereon — Payment of property taxes—Primary liability is on owner of land —See Municipalities — **Bombay Municipal Corporation Act (3 of 1888)**, S. 146

(Nov) 1048A

—S. 154—Lease of open land—Lessee's building thereon—Payment of property taxes —Primary liability is on owner of land — See Municipalities—**Bombay Municipal Corporation Act (3 of 1888)**, S. 146 (Nov) 1048A
 —S. 155—Lease of open land — Lessee's building thereon — Payment of property taxes—Primary liability is on owner of land — See Municipalities — **Bombay Municipal Corporation Act (3 of 1888)**, S. 146

(Nov) 1048A

—S. 156 — Lease of open land — Lessee's building thereon — Payment of property taxes—Primary liability is on owner of land —See Municipalities — **Bombay Municipal Corporation Act (3 of 1888)**, S. 146

(Nov) 1048A

—**Delhi Municipal Corporation Act (66 of 1957)**, S. 336 (2) (a)—**Delhi Development Act (61 of 1957)**, S. 14 — Permission for erection of building or execution of work—When can be refused—Mere preparation of Master Plan under Development Act—Plan not indicating any particular and definite use of any land — Permission cannot be refused on ground of contravention of S. 14

(May) 386

—**M. B. Municipal Corporation Act (23 of 1956)**, S. 305—Corporation cannot withdraw from acquisition proceedings (July) 579B

—S. 387—Acquisition by Corporation—Compensation payable — Arbitrators have power to award 15 P. C. solatium over and above compensation under Land Acquisition Act, S. 23 (2), which applies to acquisition proceedings under the Act (July) 579A

—S. 392—High Court cannot, in revision, determine amount of compensation — (Civil P. C. (1908), S. 115) (July) 579C

—**Mysore Excise Act, 1965 (21 of 1966)**, S. 15 — Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967), R. 12 — Benami auction purchase in contravention of R. 12—Burden of proof—Person making allegation of benami must prove it —No allegation or proof that some person

1969 (S. C.) Indexes 5.

Mysore Excise Act (1965) (contd.)

other than auction-purchaser had been managing shops and selling liquor in contravention of S. 15—Confirmation of highest bid of purchase without any objection—Purchase held not benami or illegal merely because he obtained necessary funds from some financiers—(1968) 16 Law Rep 285 (Mys), **Reversed** (Aug) 655G

—S. 71—Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967), R. 19—Rule not ultra vires of rule making power of State Government (Point conceded) (Aug) 655E

—S. 71—Rules framed under — Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967), R. 19—Excise Commissioner has no power to modify or abrogate rule framed under Section 71 and in so far as circular issued by him attempted to modify R. 19 it was ineffective (Aug) 655F

—**Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967)**, R. 12—Benami auction purchase in contravention of R. 12—Burden of proof — Person making allegation of benami must prove it—No allegation or proof that some person other than auction purchaser had been managing shops and selling liquor in contravention of S. 15 of Mysore Excise Act (1965) — Confirmation of highest bid of purchase without any objection—Purchase held not benami or illegal merely because he obtained necessary funds from some financiers — See Mysore Excise Act (1965), S. 15 (Aug) 655G

—R. 17 (2) and 20 (2)—Divisional Commissioner who has confirmed the acceptance of highest bid at sale has no power under R. 17 (2) to pass order cancelling sale as he could not revise his own order — Nor is he competent to pass an order under R. 20 (2) forfeiting deposit made by purchaser — Excise Commissioner or the State Government could under S. 17 (2) only revise his order and cancel the sale—(1968) 16 Law Rep 285 (Mysore), **Reversed** (Aug) 655C

—R. 17 (4)—Officer conducting sale accepting highest bid — Acceptance confirmed under R. 17 (1) — Officer cannot act under R. 17 (4) and accept next highest bid merely because subsequently confirmation is set aside — In such case fresh sale must be held (Aug) 655H

—R. 19—Rules not ultra vires of rule-making power of State Government (Point conceded) — See Mysore Excise Act (21 of 1966), S. 71 (Aug) 655E

—R. 19—Mysore Excise Act (21 of 1966), S. 71—Excise Commissioner has no power to modify or abrogate rule framed under S. 71 —Circular issued by him attempted to modify

Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (contd.)

R. 19—Circular is ineffective — *See* Mysore Excise Act (21 of 1966) S. 71 (Aug) 655F
 — *Rules 19 (1) and 20 (2)* — Expression “at once” in Rule 19 (1)—Meaning of — Application for licence to be made within reasonable time before July 1 — Sufficient compliance of Rule 19 (1)—Deposit made by purchaser cannot be forfeited under Rule 20 (2) (Aug) 655B

— *R. 19 (1), (3) & (4)*—Shops in respect of which right to vend liquor is sold situated in more than one tahsil — Last part of sub-rule (1) and sub-rules (3) and (4) do not apply (Aug) 655A

— *Rr. 19 (3) and, 24* — Whether R. 19 (3) offends Arts. 14 and 19 of the Constitution? — (Quaere)—But if it offends it is non est and there can be no question of purchaser being bound by it by virtue of R. 24—Desirability of redrafting R. 19 pointed out (Aug) 655D

— *R. 20 (2)*— Expression ‘at once’ in R. 19 (1)—Meaning of—Application for licence to be made within reasonable time before July 1—Sufficient compliance of R. 19 (1) — Deposit made by purchaser cannot be forfeited under R. 20 (2)—*See* Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967), R. 19 (1) (Aug) 655B

— *R. 20 (2)*—Divisional Commissioner is not competent to pass an order under R. 20 (2) forfeiting deposit made by purchaser — *See* Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967), R. 17 (2) (Aug) 655C

— *R. 24*—Whether R. 19 (3) offends Arts. 14 and 19 of the Constitution—Quaere—But if it offends it is non est and there can be no question of purchaser being bound by it by virtue of R. 24—Desirability of redrafting R. 19 pointed out—*See* Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967), R. 19 (3) (Aug) 655D
Mysore Excise Licences (General Conditions) Rules (1967), R. 4—Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967)—Expression ‘at once’ in R. 19 (1)—Meaning of—Application for licence to be made within reasonable time before July 1—Sufficient compliance of R. 19 (1)—Deposit made by purchaser cannot be forfeited under R. 20(2)—*See* Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967), R. 19 (1) (Aug) 655B

Mysore Money-Lenders Act (13 of 1939)

See under Debt Laws.

Mysore (Personal and Miscellaneous) Inams Abolition Act (1 of 1955)

See under Tenancy Laws.

Mysore Usurious Loans Act (9 of 1923)

See under Debt Laws.

Natural Justice—Principles — Applicability —*See* Education—Kerala University Act (14 of 1957), Statutes under — Statute I, Chap. VII, Cl. 3 (xxvii) (Mar) 198B

—Principles—*See* Constitution of India, Art.:311 (Mar) 198C

—Principles—Misconduct by student in examination — Inquiry — Appointment of person other than Principal of the concerned College as Inquiry Officer—It is, not illegal —*See* Education—Kerala University Act (14 of 1957), S. 19N (Mar) 198A

Official Trustees Act (2 of 1913), S. 7 — Powers of Official Trustee—He cannot go behind order of Court—Held on facts that he could not be treated as trustee de son tort (Oct) 823B

— *S. 10 (1)*—Powers of Court—Clause in trust-deed empowering settlor to alter quantum of interest given to each beneficiary ‘by will alone’—Order by Court permitting settlor to revoke that clause and to permit said alteration being done by deed inter vivos — Court is not competent to pass such order under S. 10 (1)—*See* Trusts Act (1882), S. 34 (Oct) 823A

Opium Act (1 of 1878), S. 9 (a)—Findings that accused was in conscious possession of opium and that they had also conspired together to obtain, deal in and possess opium —Conviction of accused under Ss. 9A and 120B, Penal Code on basis of findings held to be proper (Jan) 4A

— *S. 9 (a)*—Offence under S. 9 (a) investigated in accordance with provisions of Act by Police Sub-Inspector—Report made by Police Sub-Inspector under S. 20G—Trial held by Magistrate under S. 251A, Criminal P. C.—Trial is not illegal. AIR 1963 Madh Pra 337, **Overruled** — *See* Criminal P. C. (1898), S. 251A (Jan) 4B

— *S. 20.G*—Offence under S. 9 (a) investigated in accordance with provisions of Act by Police Sub-Inspector—Report made by Police Sub-Inspector under S. 20G—Trial held by Magistrate under S. 251A, Criminal P. C., is not illegal. AIR 1963 Madh Pra 337, **Overruled**—*See* Criminal P. C. (1898), S. 251A (Jan) 4B

Orissa Kendu Leaves (Control of Trade) Act (28 of 1961), S. 10—Constitution of India, Arts. 14 and 19—Sale of Kendu leaves—Monopoly of Government—Government inviting offers for advance purchase only from purchasers during previous year, who had carried out their obligations to the satisfaction of Government in preference to open competition—Action of Government held was violative of Arts. 14 and 19. AIR 1968 Orissa 189, **Reversed** (Nov) 1081A

Oudh Estates Act (1 of 1869)

See under Tenancy Laws.

Pakistan (Administration of Evacuee Property) Ordinance (15 of 1949), S. 45—Notification dated 15-2-1952—Joint Hindu family under Hindu law is not an individual but a body of individuals contemplated by Notification dated 15-2-52 issued by Government of Pakistan under S. 45 of Pakistan (Administration of Evacuee Property) Ordinance—See Hindu Law—Joint family

(Dec) 1330A

—S. 45—Involuntary assignment of debts—Joint Hindu family having cash deposits in a bank in Pakistan—Liability of the Bank in India in respect of such deposits is extinguished. C. R. D. 104-D of 1958 D/- 12-9-63 (Punj), **Reversed**—See Constitution of India, Art. 51

(Dec) 1330B

PANCHAYATS

—**Punjab Panchayat Samities and Zilla Parishads Act (3 of 1961), S. 95**—Office of profit—Allowances paid under Rr. 3 to 7 of Punjab Panchayat Samities and Zilla Parishads Non-official Members (Payment of Allowances) Rules, 1965, do not convert the office of Chairman Panchayat Samity into an office of profit—Such a person is not disqualified from being elected to the Legislative Assembly—See Constitution of India, Art. 191 (1) (a)

(Apr) 262

—**Punjab Panchayat Samities and Zilla Parishads Non-official Members (Payment of Allowances) Rules (1965), Rr. 3 to 7**—Office of profit—Allowances paid under Rr. 3 to 7 of Punjab Panchayat Samities and Zilla Parishads Non-official Members (Payment of Allowances) Rules, 1965, do not convert the office of Chairman, Panchayat Samity into an office of profit—Such a person is not disqualified from being elected to the Legislative Assembly—See Constitution of India, Art. 191 (1) (a)

(Apr) 262

Part B States (Taxation Concessions) Order (1950), Para. 4 (1) (iii)—Profit arising in different taxable territories—Apportionment—Contract for sale of goods—Selling operations carried out at different places, only one of them situate in Part B State—Portion of profit accrues at all places—Receipt of profit at place situate in Part B State—Entire profit does not accrue in taxable territories other than Part B State—Assessee entitled to concession under Order (1950) for profits outside Part B State only—See Income-tax Act (1922), S. 4 (1) (a)

(Mar) 299

—**Para. 6**—Profit arising in different taxable territories—Apportionment—Contract for sale of goods—Selling operations carried

Part B States (Taxation Concessions) Order (contd.)

ed out a different places, only one of them situate in Part B State—Portion of profit accrues at all places—Receipt of profit at place situate in Part B State—Entire profit does not accrue in taxable territories other than Part B State—Assessee entitled to concession under Order (1950) for profits outside Part B State only—See Income-tax Act (1922), S. 4 (1) (a)

(Apr) 299

—**Para. 6A**—Profit arising in different taxable territories—Apportionment—Contract for sale of goods—Selling operations carried out at different places, only one of them situate in Part B State—Portion of profit accrues at all places—Receipt of profit at place situate in Part B State—Entire profit does not accrue in taxable territories other than Part B State—Assessee entitled to concession under Order (1950) for profits outside Part B State only—See Income-tax Act (1922), S. 4 (1) (a)

(Apr) 299

—**Paragraph 7**—Profit arising in different taxable territories—Apportionment—Contract for sale of goods—Selling operations carried out at different places, only one of them situate in Part B State—Portion of profit accrues at all places—Receipt of profit at place situate in Part B State—Entire profit does not accrue in taxable territories other than Part B State—Assessee entitled to concession under Order (1950) for profits outside Part B State only—See Income-tax Act (1922), S. 4 (1) (a)

(April) 299

Partnership Act (9 of 1932), S. 25—Expression “other person liable to pay” in S. 29 does not include person liable to pay under Partnership Act or any other statute—Assessment of unregistered firm—Recovery from partner—Separate notice to him under S. 29 is not necessary: 1960 I T R 197 (Mys) and AIR 1961 All 133, **Overruled**—See Income-tax Act (1922), S. 29

(Aug) 667A

—**S. 25**—Tax due from unregistered firm—Certificate under S. 46 only mentioning amount of arrears of tax due from assessee, the unregistered firm—Collector can execute certificate of demand against a “partner” under O. 21, R. 50, Civil P. C., which applies by virtue of proviso to S. 46 (2)—See Income-tax Act (1922), S. 46

(Aug) 667B

Payment of Bonus Act (21 of 1965), Preamble—Interpretation—Reference to history of bonus and the background of the Act—Permissible only for ascertaining remedy and not for construing provisions of the Act

(July) 530A

—**Ss. 1 (3), 2 (16), 32 (x), 22 and 39**—Claim to bonus by workers in establishments to which the Act does not apply—Scope of Ss. 22 and 39—Industrial Disputes Act

Payment of Bonus Act (contd.)

does not provide for right to bonus—Act is exhaustive — Workers in establishments to which Act does not apply cannot claim bonus dehors the Act (July) 530B

—S. 2 (16) — Claim to bonus by workers in establishments to which the Act does not apply—Workers in establishments to which Act does not apply cannot claim bonus dehors the Act—*See* Payment of Bonus Act (21 of 1965), S. 1 (3) (July) 530B

—Ss. 2 (18), 4 and 6 and Sch. 2 — Computation of gross-profits and deduction of depreciation for calculating available surplus under Bonus Act and that under Companies Act for distribution of dividend — Distinction between pointed out (Aug) 612A

—S. 2 (21) and (iv) — Bonus — Payments in past neither uniform nor connected with any festival—Payments held not as implied condition of service — *See* Industrial Disputes Act (1947), Sch. 3, Item 5 (Nov) 998

—S. 4—Computation of gross-profits and deduction of depreciation for calculating available surplus under Bonus Act and that under Companies Act for distribution of dividend — Distinction between, pointed out—*See* Payment of Bonus Act (1965), S. 2 (18) (Aug) 612A

—Ss. 4 and 6 and Sch. 2 — Available surplus — Development rebate — Deduction under S. 6 out of gross profits arrived under S. 4 — Amount actually allowable as development rebate under S. 33, Income-tax Act, 1961 should be allowed as deduction — Tribunal commits an error in allowing only seventy five per cent of that amount contemplated by S. 34 (3), Income-tax Act, as development rebate reserve (Aug) 612C

—Ss. 4 and 6 and Sch. 2 and 3 — Company — Accounts kept on mercantile basis — Provision for contingent liability under Gratuity scheme — Estimated liability on an actuarial valuation — Claim for deduction in profit and loss account for ascertainment of net profits — Accrued liability though not actually paid is permissible deduction under Income-tax Act and Wealth Tax Act — Same Rule applies under Bonus Act (Aug) 612D

—S. 5 — Claim for higher bonus — Basis for — Duty of Tribunal — *See* Industrial Disputes Act (1947), S. 10 (1) (Nov) 976E

—S. 6—Computation of gross-profits and deduction of depreciation for calculating available surplus under Bonus Act and that under Companies Act for distribution of dividend — Distinction between pointed out — *See* Payment of Bonus Act (1965), S. 2 (18) (Aug) 612A

Payment of Bonus Act (contd.)

—Ss. 6 and 23 — Claim for depreciation—Dispute as to—Burden of proof—Company must prove by legal evidence amount claimed — Presumption of accuracy attaching to balance sheet and P and L account not applicable to auditor's certificate — *See* production of auditor's certificate not conclusive — Employees should be given adequate opportunity to verify figures in certificate by cross-examination of employer and his witnesses (Aug) 612B

—S. 6—Available surplus — Development rebate — Deduction under S. 6 out of gross profits arrived under S. 4 — Amount actually allowable as development rebate under S. 33, Income-tax Act, 1961 should be allowed as deduction — *See* Payment of Bonus Act (1965), S. 4 (Aug) 612C

—S. 6 — Accrued liability though not actually paid is permissible deduction under Income-tax Act and Wealth Tax Act—Same Rule applies under Bonus Act—*See* Payment of Bonus Act (1965), S. 4 (Aug) 612D

—Ss. 6 (c) and 7—Scope and interpretation of — Direct taxes — Mode of computation — Deduction from gross profits to arrive at available surplus — Act has retained main outlines of Full Bench formula — Scheme of Act explained — Tribunal must estimate amount of direct taxes on balance of gross profits as worked out under Ss. 4 and 6 but without deducting bonus payable to employees in that accounting year (Aug) 612F

—S. 6 (d) and Sch. 3, Cl. 1 (iii) — Interest on capital reserve — Allowance for—Transfer of increased value of assets on revaluation to capital reserve account — Interest thereon allowed to be deducted from gross profits (Aug) 612E

—S. 7 — Tribunal must estimate amount of direct taxes on balance of gross profits as worked out under Ss. 4 and 6 but without deducting bonus payable to employees in that accounting year — *See* Payment of Bonus Act (1965), S. 6 (c) (Aug) 612F

—S. 17 — Bonus—Payments in past, not at uniform rate — Claim, held not sustainable as customary or traditional bonus—*See* Industrial Disputes Act (1947), Sch. 3, Item 5 (Nov) 998

—S. 22 — Scope of Ss. 22 and 39, Industrial Disputes Act, does not provide for right to bonus—Act is exhaustive—Workers in establishments to which Act does not apply cannot claim bonus dehors the Act — *See* Payment of Bonus Act (21 of 1965), S. 1 (3) (July) 530B

—S. 23 — Claim for depreciation — Dispute as to — Presumption of accuracy attaching to balance sheet and P and L account not applicable to auditor's certificate — *See* production of auditor's certificate not conclusive — Employees should be given adequate opportunity to verify figures in certificate by cross-examination of employer and his witnesses (Aug) 612B

Payment of Bonus Act (contd.)

ching to balance sheet and P and L account not applicable to auditor's certificate — *See* Payment of Bonus Act (1965), S. 6

(Aug) 612B

—S. 32 (x) — Workers in establishments to which Act does not apply cannot claim bonus dehors the Act — Exemption under S. 32 (x), is not open to challenge under any law relating to Industrial Disputes — *See* Payment of Bonus Act (21 of 1965), S. 1 (3)

(July) 530B

—S. 39—Scope of Ss. 22 and 39—Industrial Disputes Act does not provide for right to bonus—Act is exhaustive—Workers in establishments to which Act does not apply cannot claim bonus dehors the Act — *See* Payment of Bonus Act (21 of 1965), S. 1 (3)

(July) 530B

—Sch. 2 — Computation of gross profits and deduction of depreciation for calculating available surplus under Bonus Act and that under Companies Act for distribution of dividend — Distinction between, pointed out—*See* Payment of Bonus Act (1965), S. 2 (18)

(Aug) 612A

—Sch. II — Available surplus—Development rebate — Deduction under S. 6 out of gross profits arrived under S. 4 — Amount actually allowable as development rebate under S. 33, Income Tax Act, 1961 should allowed as deduction—*See* Payment of Bonus Act (1965), S. 4

(Aug) 612C

—Sch. II — Accrued liability though not actually paid is permissible deduction under Income Tax Act and Wealth Tax Act—Same Rule applies under Bonus Act—*See* Payment of Bonus Act (1965), S. 4

(Aug) 612D

—Sch. III — Accrued liability though not actually paid is permissible deduction under Income Tax Act and Wealth Tax Act—Same Rule applies under Bonus Act — *See* Payment of Bonus Act (1965), S. 4

(Aug) 612D

—Sch. III, Cl. 1 (iii) — Interest on capital reserve — Allowance for — Transfer of increased value of assets on revaluation to capital reserve accounts — Interest thereon allowed to be deducted from gross profits—*See* Payment of Bonus Act (1965), S. 6 (d)

(Aug) 612E

Payment of Wages Act (4 of 1936), S. 2 (vi) (d) (as amended by 68 of 1957) — Wages include compensation payable under Sec. 25-FF, Industrial Disputes Act, 1967-1 Lab L J 232 (Punj) Overruled — *See* Payment of Wages Act 1936, as amended by Act 68 of 1957), S. 15 (2)

(July) 590

—S. 15—No dispute as to rate of wages—Only question whether particular payment at agreed rate for overtime and work on

Payment of Wages Act (contd.)

weekly off days is due to a workman or not — Appropriate remedy is under the Act — Where this remedy is not adequate, remedy can be sought under Industrial Disputes Act — *See* Industrial Disputes Act (1947), S. 33C (2)

(Dec) 1335B

—Ss. 15 (2), 2 (vi), (d) (as amended by Act 68 of 1957)—Wages include compensation payable under S. 25-FF, Industrial Disputes Act — Authority under Payment of Wages Act in application under S. 15 (2) cannot entertain claim for compensation under S. 25 FF, when defence raised involves complicated question of law—Proper authority is Labour Court. 1967-1 Lab L J 232 (Punj) Overruled

(July) 590

Penal Code (45 of 1860), S. 20 — Registrar's nominee appointed under S. 95 of Maharashtra Co-operative Societies Act is not a 'Court' within S. 195, Criminal P. C. A I R 1930 Mad 896, A I R 1934 Mad 40, AIR 1935 Mad 673 and AIR 1918 Cal 932, Overruled—*See* Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 95

(Aug, 724A

—S. 29 — Income-tax assessment order is a document — *See* Penal Code (1860), S. 420

(Jan) 40B

—S. 30—Income-tax assessment order is a valuable security — *See* Penal Code (1860), S. 420

(Jan) 40B

—Chapter IV, General (Ss. 76-106) — Applicability — Conditions essential — Plea of insanity — State of mind before and after commission of act relevant—*See* Penal Code (1860), S. 84

(Jan) 15

—S. 84 and Chapter IV, General—Applicability — Conditions essential — Plea of insanity — State of mind before and after commission of act relevant — Held on evidence that defence of insanity was not made out

(Jan) 15

—S. 99—Fight between two groups—Charge of murder by inflicting two blows of jambia on deceased—Plea of private defence of person of his brother raised by accused in his statement under S. 342, Cri. P. C.—Conviction under S. 304 Part II on ground that accused had exceeded right of private defence—Held on facts that there was sufficient evidence including injury report and testimony of doctor to warrant the conclusion that right of private defence had been exceeded — *See* Criminal P. C. (1898), S. 342

(Nov) 956

—S. 100 — Fight between two groups — Charge of murder by inflicting two blows of jambia on deceased—Plea of private defence of person of his brother raised by accused in his statement under S. 342, Criminal P. C.—Conviction under S. 304, Part II on ground that accused had exceeded right of private

Penal Code (contd.)

defence — Held on facts that there was sufficient evidence including injury report and testimony of doctor to warrant the conclusion that right of private defence had been exceeded — *See* Criminal P. C. (1898), S. 342

(Nov) 956

— *S. 114* — Accused No. 2 extorting moneys from villagers abusing his official status — Accused No. 1 a subordinate of A-2 aiding and being present at the time A-2 received moneys — A-1 held guilty under S. 5 (2) of Prevention of Corruption Act read with S. 114 of Penal Code (Jan) 17F

— *S. 120-B* — Opium Act (1878), S. 9 (a) — Prosecution of accused A, his two sons, B and C and his nephew D under S. 120-B, I. P. C. and S. 9 (a) of the Act — Recovery of large quantity of opium from house of accused — Question whether accused persons were in conscious possession of opium recovered from their house — Plea of their living separately and that they were not present at time of recovery considered in detail and decided against accused — Chance of any outsider having thrown opium in Court-yard of house eliminated — Concurrent findings of trial Court and appellate Court accepted by High Court in revision — There was no legal error or infirmity committed by any of the Courts — Findings not interfered in appeal by special leave (Jan) 4A

— *S. 149* — Common object of unlawful assembly to beat up members of opposite party — Death of member of opposite party as result of injuries received — Person named as causing those injuries not proved to be member of unlawful assembly — Other members can be convicted for offences committed by virtue of S. 149 (Aug) 689

— *S. 161* — Persons giving illegal gratification under coercion and fear of being harassed are not accomplices — Their evidence is not required to be corroborated — *See* Evidence Act (1872), S. 133 (Jan) 17A

— *S. 161* — Though trap witnesses are interested witnesses, as a matter of law their evidence cannot be rejected for want of corroboration — *See* Evidence Act (1872), S. 133 (Jan) 17B

— *S. 161* — Ingredients of the offence — Motive of the particular kind mentioned in the section is necessary. *Cri. Appeal No. 656 of 1933, D/- 14-12-1964 (Raj), Reversed* (Jan) 17C

— *S. 161* — Offences not falling under — Provisions of S. (5) (1) (a) of Prevention of Corruption Act has no application — *See* Prevention of Corruption Act (II of 1947), S. 5 (1) (a) (Jan) 17D

— *S. 177* — No repugnancy or inconsistency between S. 52 of Income Tax Act (1922) and

Penal Code (contd.)

S. 177 of Penal Code — S. 52 merely provides a new course of procedure for what was already an offence — Provisions can stand together and must therefore be treated as cumulative in effect — *See* Income Tax Act (1922), S. 52 (Aug) 701A

— *S. 177* — False statement in verification of Income Tax return — Person can be prosecuted both under S. 177 of Penal Code and S. 52 of Income Tax Act (1922) at the same time — S. 26 of General Clauses Act only bars punishment of offender twice for same offence and not trial or conviction under both enactments — *See* General Clauses Act (1897), S. 26 (Aug) 701D

— *S. 182* — Offence under S. 182 is distinct from the one under S. 211 — *See* Criminal P. C. (1898), S. 195 (1) (b) and (1) (a) (May) 355A

— *S. 182* — Prosecution for offence under S. 182 — Cannot be continued for non-compliance of S. 195 (1) (B), Criminal P. C. — *See* Criminal P. C. (1898), S. 207A (May) 355B

— *S. 193* — F. I. R. alleging cognizable offences under S. 193 — Informant filing complaint before Magistrate, making allegations — Magistrate cannot take cognizance of offence — *See* Criminal P. C. (1898), S. 195 (1) (b) and (1) (a) (May) 355A

— *S. 193* — F. I. R. alleging certain cognizable offence — Informant filing complaint on same allegations — Allegations found to be false by Police — Informant charge-sheeted under Ss. 408, 467, 474, 193, 385, 109, 211 and 182, Penal Code — Prosecution under Ss. 182, 211 and 193 could not continue for non-compliance of S. 195 (1) (b), Criminal P. C. — Quashing of entire prosecution case, held, illegal. *C. R. No. 34-1M of 1965, D/- 4-2-1966 (Punj), Reversed* — *See* Criminal P. C. (1898), S. 207-A (May) 355B

— *Ss. 199 and 200* — Essential ingredients — For conviction under S. 199 false statement in a declaration must be proved to be touching any point material to the object for which declaration is made — For conviction under S. 200 declaration should be used or attempted to be used corruptly — Appellant swearing affidavit giving date of birth of his minor son on basis of school record knowing that it was wrong — Giving of wrong date not touching any material point in appeal and appellant standing to gain no advantage therefrom — Declaration not shown to be used corruptly — Filing of complaint by Court under Ss. 199 and 200 against appellant is not justified. *Cr. App. No. 4 of 1967, D/- 10-11-1967 (Pat), Reversed* (Jan) 7

— *S. 200* — For conviction under S. 200 declaration should be used or attempted to

Penal Code (contd.)

be used corruptly—Cr. App. No. 4 of 1967, D/- 10.11.67 (Pat), **Reversed**—*See* Penal Code (1860), S. 199 (Jan) 7

—S. 211—Offence under S. 182 is distinct from one under S. 211—Offence under S. 211 is more serious and may include offence under S. 182—Prosecution for offence under S. 211—Cannot be continued for non-compliance of S. 195 (1) (b), Criminal P. C. AIR 1923 All 765, **Overruled**—*See* Criminal P. C. (1898), S. 195 (1) (b) and (1) (a)₂ (May) 355A

—S. 211—Prosecution for offence under S. 211—Cannot be continued for non-compliance of S. 195 (1) (b), Criminal P. C.—*See* Criminal P. C. (1898), S. 207A (May) 355B

—S. 302—Charge for murder—Confessional statement to Mukhia of village—Acceptance of inculpatory portion and conviction based thereon, held, was valid—*See* Evidence Act (1872), S. 3 (May) 422

—S. 302—Accused convicted for murder on basis of dying declaration of victim and evidence of witnesses and sentenced to death—Death sentence confirmed on appeal by High Court—Case held not fit for interference by Supreme Court—Sentence of imprisonment for life held appropriate in circumstances of case as intention to murder was lacking—*See* Constitution of India, Art. 136 (Nov) 951B

—S. 304—Accused convicted for murder on basis of dying declaration of victim and evidence of witnesses and sentenced to death—Death sentence confirmed on appeal by High Court—Case held not fit for interference by Supreme Court—Sentence of imprisonment for life held appropriate in circumstances of case as intention to murder was lacking—*See* Constitution of India, Art. 136 (Nov) 951B

—S. 304, Part II—Fight between two groups—Charge of murder by inflicting two blows of jambia on deceased—Plea of private defence of person of his brother raised by accused in his statement under S. 342, Criminal P. C.—Conviction under S. 304, Part II on ground that accused had exceeded right of private defence—Held on facts that there was sufficient evidence including injury report and testimony of doctor to warrant the conclusion that right of private defence had been exceeded—*See* Criminal P. C. (1898), S. 342 (Nov) 956

—Ss. 420 and 22—'Property' does not necessarily mean a thing which must have a market value—Income-tax assessment order is a 'property' (Jan) 40A

—Ss. 420, 29 and 30—Valuable security—Income-tax assessment order is a valuable security (Jan) 40B

Penal Code (contd.)

—S. 463—Offence under S. 146 (p), Maharashtra Co-operative Societies Act is distinct from offences under Ss. 463, 464, Penal Code—Does not repeal S. 465, Penal Code—Private complaint to Magistrate that a party has committed offences under Ss. 465, 471, Penal Code—Prior sanction of Registrar under S. 148 (3) is not necessary—*See* Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 148 (3) (Aug) 724B

—S. 464—Offence under S. 146 (p), Maharashtra Co-operative Societies Act is distinct from offences under Ss. 463, 464, Penal Code—Does not repeal S. 465, Penal Code—Private complaint to Magistrate that a party has committed offences under Ss. 465, 471, Penal Code—Prior sanction of Registrar under S. 148 (3) is not necessary—*See* Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 148 (3) (Aug) 724B

—S. 465—Registrar's nominee appointed under S. 95 of Maharashtra Co-operative Societies Act is not a 'Court' within S. 195, Criminal P. C.—Commission of offences under Ss. 465 and 471, Penal Code by party before Registrar's nominee—Magistrate can take cognizance thereof on private complaint—AIR 1930 Mad 896 & AIR 1934 Mad 40 and AIR 1935 Mad 673 and AIR 1918 Cal 932, **Overruled**—*See* Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 95 (Aug) 724A

—S. 465—Offence under S. 146 (p), Maharashtra Co-operative Societies Act is distinct from offences under Ss. 463, 464, Penal Code—Does not repeal S. 465, Penal Code—Private complaint to Magistrate that a party has committed offences under Ss. 465, 471, Penal Code—Prior sanction of Registrar under S. 148 (3) is not necessary—*See* Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 148 (3) (Aug) 724B

—S. 471—Registrar's nominee appointed under S. 95 of Maharashtra Co-operative Societies Act is not a 'Court' within S. 195, Criminal P. C.—Commission of offences under Ss. 465 and 471, Penal Code by party before Registrar's nominee—Magistrate can take cognizance thereof on private complaint—AIR 1930 Mad 896 and AIR 1934 Mad 40 and AIR 1935 Mad 673 and AIR 1918 Cal 932, **Overruled**—*See* Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 95 (Aug) 724A

—S. 471—Offence under S. 146 (p) of Maharashtra Co-operative Societies Act is distinct from offences under Ss. 463,

Penal Code (contd.)

464, Penal Code—Does not repeal S. 465, Penal Code—Private complaint to Magistrate that a party has committed offences under Ss. 465, 471, Penal Code—Prior sanction of Registrar under S. 148 (3) is not necessary — See Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961), S. 148, (3) (Aug) 724B

Pepsu Tenancy and Agricultural Lands Act (8 of 1953).

See under Tenancy Laws.

Police Act (5 of 1861), S. 7 — Enquiry under — Copy of enquiry report given to delinquent police Officer along with show cause notice indicating that his past record was taken into consideration — Opportunity to offer explanation on question of past record — Sufficiency—S. A. No. 1271 of 1962, D/- 2-3-1965 (All), **Reversed** — See Constitution of India, Art. 311 (2) (Nov) 1020A
—Ss. 7 and 29 — Scope of—S. 29 does not in any way limit operation of S. 7 (Nov) 1020C

—S. 29—Scope of — S. 29 does not in any way limit operation of S. 7—See Police Act (1861), S. 7 (Nov) 1020C

Prevention of Corruption Act (2 of 1947), Ss. 5 (1) and 5 (2) — Persons giving illegal gratification under coercion and fear of being harassed are not accomplices — See Evidence Act (1872), S. 133 (Jan) 17A
—Ss. 5 (1) and 5 (2) — Trial of offences under—Though trap witnesses are interested witnesses, as a matter of law, their evidence cannot be rejected for want of corroboration — See Evidence Act (1872), S. 133 (Jan) 17B

—S. 5 (1) (a) — Offence not falling under S. 161 of Penal Code cannot come within this provision (Jan) 17D

—Ss. 5 (1), 5 (1) (d) and 5 (2)—Ingredients — Acts complained of, need not be in the discharge of official duties (Jan) 17E

—S. 5 (2)—Accused No. 1 a subordinate of A-2, aiding and being present at time A-2 received moneys by extortion — A-1 held guilty under S. 5 (2) read with S. 114, Penal Code — See Penal Code (1860), S. 114 (Jan) 17F

Preventive Detention Act (4 of 1950)

See under Public Safety.

Provident Funds Act (19 of 1925) S. 3 — Subscriber to Railway Provident Fund electing to be governed by Provident Fund Sterling Accounts Rules—Subscriber requesting payment in sterling and by Bank draft in a bank in England — Railway Administration drawing cheques in favour of Reserve Bank of India with instructions to convert it into sterling and then to transmit amount to subscriber's banker in England—Attachment

Provident Funds Act (contd.)

of cheques lying with Reserve Bank in execution of money decree — Validity — Held attachment was contrary to terms of S. 3 because obligation of railway administration could not be said to have been discharged till directions of subscriber regarding transmission of fund were complied with — A I R 1962 Cal 169, **Reversed** (Sep) 762

Provincial Insolvency Act (5 of 1920), S. 53—

Finding of District Court in appeal that impugned mortgage is supported by consideration and is a genuine transaction—High Court acting under S. 75, first proviso cannot review finding: Civ. Rev. Petns. Nos. 981 and 982 of 1956 D/- 17-1-1956 (Mad), **Reversed** as the High Court reviewed the finding of the District Court — See Provincial Insolvency Act (1920), S. 75 (1), first proviso (Dec) 1344A

—S. 53—Mortgage impeached as not supported by consideration — Onus is on party challenging its validity to prove absence of consideration—But where mortgagees do not stand by the recitals as to the manner in which consideration was paid it is for them to prove the passing of consideration (Dec) 1344B

—S. 75 (1) first Proviso and S. 53 — Powers of High Court—Findings of fact by District Court—High Court cannot de novo examine those findings. Civil Revn. Petns. Nos. 981 and 982 of 1956, D/- 17-1-1958 (Mad), **Reversed** (Dec) 1344A

Provincial Small Cause Courts Act (9 of 1887), S. 25 — Powers under S. 75 (1), first proviso, of Provincial Insolvency Act are similar to those under S. 25—See Provincial Insolvency Act (1920), S. 75 (1) first proviso (Dec) 1344A

PUBLIC SAFETY

—Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 3 — Detention—Restrictions to be imposed on detenu must be minimal (Dec) 1153D

—S. 3 (1) (a) (i) — Detention under—Detention for more than three months but not more than six months—Case not referred to Advisory Board as required under S. 10—Detention is valid — See Public Safety — Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 13A (Dec) 1153A

—S. 3 (1) (a) (i)—Detention under S. 3 (1) (a) (i) for six months—Opinion of Advisory Board not obtained by virtue of S. 13A (1) — On expiry of six months, in consequence of further information fresh order of detention issued after cancellation of original order — No proof that Government's action

Public Safety — J. & K. Preventive Detention Act (contd.)

was actuated by ill-will or taken for some collateral purpose — Held, original or fresh order of detention could not be said to be illegal (Dec) 1153B

—S. 3 (1) (a) (i) — Order of detention under S. 3 (1) (a) (i) — Grounds for detention specified in annexure appended to order — Facts relevant except those which the Government considered to be against public interest to disclose, intimated to the detenu — Order held was legal — See Public Safety — Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 8 (2) (Dec) 1153C

—Ss. 8 (2), 3 (1) (a) (i) — Order of detention under S. 3 (1) (a) (i) — Grounds for detention specified in annexure appended to order — Order clearly stating that facts relevant to grounds, except those which the Government considered to be against public interest to disclose, intimated to the detenu — Grounds, held, could not be said to be vague and indefinite merely because annexure was somewhat indefinite and vague due to withholding of those facts (Dec) 1153C

—S. 10 — S. 13A is an exception to S. 10 and other relevant sections — Order of detention with view to detain for more than three months but not more than six months — No necessity to obtain opinion of Advisory Board — See Public Safety — Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 13A (Dec) 1153A

—Ss. 13A, 10 and 3 (1) (a) (i) — Section 13A is an exception to S. 10 and other relevant sections — Order of detention with view to detain for more than three months but not more than six months — No necessity to obtain opinion of Advisory Board (Dec) 1153A

—Preventive Detention Act (4 of 1950), Ss. 3 (1) (a) (ii), 7 (1) — Grounds in support of order in English language served on detenu running into fourteen typed pages and referred to his activities over thirteen years beside referring to large number of court proceedings concerning him and his associates — Mere oral explanation by the Authorities of such complicated order without supplying him translation in script and language which he understood — It amounts to denial of right of being communicated the grounds and of being afforded the opportunity of making representation against the order (Jan) 43A

—S. 3 (1) (a) (ii) — Order under, revoked — Fresh order under S. 13 (2) on same facts not justified — See Public Safety — Preventive Detention Act (1950), S. 13 (2) (Jan) 43B

—S. 3 (2) — Order of detention — Some of

Public Safety — Preventive Detention Act. (contd.)

grounds, irrelevant to public order — Detention order could not be upheld (Nov) 1004A

—S. 3 (2) — Detention on ground of activities prejudicial to maintenance of essential supplies — Fact that detenu could not produce requisition licence or permit could not be regarded as relevant ground for detention (Nov) 1004B

—S. 3 (2) — Grounds for detention — Disturbance which will affect public order can alone justify detention under that head — Allegation of offence under Penal Code for which prosecution could be launched is not ground for detention (Nov) 1004C

—S. 3 (2) — Grounds for detention — One of grounds was that detenu along with his associate committed theft of overhead traction wires including contact wire, disrupting train service — Held, detention might have been justified under head "maintenance of supplies and services essential to community" but not under "maintenance of public order" (Nov) 1004D

—S. 3 (2) — Maintenance of public order — Grounds for detention relating mostly to removal of rice bags in clandestine manner — Grounds cannot be regarded as relevant to maintenance of public order (Nov) 1004E

—S. 3 (2) — Grounds too vague to make any representation with regard to it — Detention order is liable to be set aside (Nov) 1004F

—S. 3 (2) — Grounds for detention — They have to be reasonably proximate in time — Ground relating to incident happening in 1965 — Detention order in 1968 held not justified (Nov) 1004G

—S. 3 (2) — Being drunk and demanding Rs. 2 from a person and threatening him with murder if he failed to pay — This ground is not relevant to maintenance of public order (Nov) 1004H

—S. 3 (2) — That the detenu was suspected to have complicity in an offence under S. 379, I. P. C. committed in 1965 has no relevancy to maintenance of public order — Detention order in 1968 is illegal (Nov) 1004I

—S. 3 (3) — 'Forthwith,' meaning of — Statute requiring particular thing to be done 'forthwith' — It should be understood as allowing reasonable time for doing it — Report to State Government made four days after passing of detention order and two days after arrest and commencement of detention — Held that even if the strict meaning given to expression 'forthwith' in AIR 1957 S C 28

Public safety — Preventive Detention Act
(*contd.*)

is applied delay of four days was explained sufficiently by the District Magistrate and there was sufficient compliance with S. 3 (3) (April) 323A

—S. 3 (3)—Approval of State Government to detention not communicated to detenu — Detention not rendered illegal on that ground (April) 323B

—S. 3 (4)—Report to Central Government 'as soon as may be' time under S. 3 (4) can only be calculated from moment matter reached State Government — State Government after receipt of report of detention taking a week for giving its approval and communicating matter to Central Government three days thereafter — State Government cannot be held guilty of unreasonable delay in reporting to Central Government so as to render detention illegal (April) 323C

—S. 7 — Order of detention and grounds of detention supplied to detenu in English though he knew only Bengali and Tripuri — No request by detenu at earlier stage and no objection as to language of grounds raised by detenu in his original petition under Art. 32 in English—Objection raised at stage of rejoinder held could not be entertained especially when detenu was not handicapped thereby (April) 323D

—S. 7—Representation by detenu — Government must consider it immediately even if reference to Advisory Board is to be made —See Constitution of India, Art. 22 (5) (Nov) 1028

—S. 7 (1)—Order made by District Magistrate, not followed up by service within five days, of communication of grounds must be deemed to be invalid—Subsequent detention is invalid—See Public Safety — Preventive Detention Act (1950), S. 3 (1) (a) (ii) (Jan) 43A

—S. 9—Representation by detenu — Government must consider it immediately even if reference to Advisory Board is to be made —See Constitution of India, Art. 22 (5) (Nov) 1028

—Ss. 13 (2), 3 (1) (a) (ii)—Scope of S. 13 (2) —Expression "revocation" in S. 13 (2) is not capable of restricted interpretation — Order under S. 3 (1) (a) (ii) revoked — Fresh order under S. 13 (2) based not on fresh facts — Order is not justified under S. 13 (2) (Jan) 43B

—Trav-Co. Public Safety Measures Act (5 of 1950), S. 3—Suit for damages for breach of contracts in respect of goods purchased by plaintiff on behalf of defendant—Defendant

Public Safety — Trav-Co. Public Measures Act
(*contd.*)

refusing to take delivery on due dates—Contracts entered into in February 1952 — S. 3 of the Act found to be valid — Relevant Prohibition Order prohibiting forward contracts continued to remain in force under Proviso to S. 17 (4) of Essential Supplies (Temporary Powers) Act (1946) — Contracts held to be against law — Suit for damages for breach of those contracts held to be not maintainable—AIR 1964 Ker 92, **Reversed** — See Contract Act (1872), S. 73 (June) 504A

—S. 3—Section is not void for non-compliance with proviso to Art. 304—AIR 1964 Ker 92, **Reversed** — AIR 1955 Trav-Co. 82 (FB), AIR 1954 Trav-Co 34 and AIR 1954 Trav-Co 257, **Overruled**—See Constitution of India, Art. 304 (b) Proviso (June) 504B

—S. 73 (2) — Suit for damages for breach of contracts in respect of goods purchased by plaintiff on behalf of defendant— Defendant refusing to take delivery on due dates— Contracts entered into in February 1952 — S. 3 of the Act found to be valid — Relevant Prohibition Order prohibiting forward contracts continued to remain in force under Proviso to S. 17 (4) of Essential Supplies (Temporary Powers) Act (1946) — Contracts held to be against law—Suit for damages for breach of those contracts held to be not maintainable—AIR 1964 Ker 92, **Reversed**— See Contract Act (1872), S. 73 (June) 504A

Punjab Cattle Fairs (Regulation) Act (6 of 1968), Preamble—Punjab State Legislature is competent to enact Punjab Cattle Fairs (Regulation) Act (6 of 1968) by virtue of entry 28 of List 2 of 7th Schedule of Constitution—AIR 1968 Punj 391, **Overruled**— See Constitution of India, Art. 13 (Nov) 1100A

—Preamble—Act is constitutionally valid and does not violate Arts. 19 and 31 — See Constitution of India, Art. 13 (Nov) 1100B

—S. 3—Monopoly acquired by State to hold and manage cattle fairs—Does not extend to holding it on property of local authorities or private owners—See Constitution of India, Art. 13 (Nov) 1100B

—Ss. 3, 4 — Powers of State Government to declare fair area may be exercised only in respect of lands belonging to State and not in respect of those belonging to local authorities or individuals — Attempt to prevent persons from conducting business of cattle markets is unauthorised (Nov) 1100C

—S. 4—Monopoly acquired by State to hold and manage cattle fairs — Does not ex-

Punjab Cattle Fairs (Regulation) Act
(*contd.*)

tend to hold cattle fairs on property of local authorities or private owner — See Constitution of India, Art. 13 (Nov) 1100B

—S. 4 — Powers of State Government to declare fair area—Exercise of— Mode — See Punjab Cattle Fairs (Regulation) Act (6 of 1968), S. 3 (Nov) 1100C

Punjab Custom (Power to Contest) Act (2 of 1920), S. 8 — Alienation of ancestral land without necessity by Hindu Jat — Suit by competent reversioner—Effect—Declaratory decree enures in favour of all heirs including female heirs — S. A. No. 254 of 1962, D/- 18-11-1963 (Punj), **Reversed** (Dec) 1144A

—S. 8—Alienation of ancestral land without necessity by Hindu Jat in 1916—Decree obtained by competent reversioner in 1920 declaring alienation ineffective against his reversionary interest—Death of alienor after Hindu Succession Act—Held that the latter Act did not retrospectively enlarge the power of the holder of ancestral land and did not nullify the decree obtained before the Act—S. A. No. 254 of 1962, D/- 18-11-1963 Punj **Reversed** (Dec) 1144C

Punjab Legislative Assembly Rules of Procedure and Conduct of Business, R. 7—Prorogation becomes effective from date it is notified in official Gazette of State—Action of Secretary in sending copies to members is ministerial act—R. 7 of Rules of Procedure and Conduct of Business does not add a clause to Art. 174 (2)—See Constitution of India, Art. 174 (2) (Oct) 903B

—R. 105—Speaker adjourning Legislature under R. 105 of Procedure and Conduct of Business in Punjab Legislative Assembly for two months beyond March 31—Impossibility of getting Finance Bill passed before March 31—Governor can prorogue Assembly and get rid of adjournment—Art. 174 (2) does not put any restriction on powers of Governor—His action cannot be questioned on grounds of mala fide, when legislature was not in session—See Constitution of India, Art. 174 (2) (Oct) 903A

—R. 105 — No inconsistency between section 3 of Punjab Ordinance (1 of 1968) and R. 105 of Rules of Procedure and Conduct Business—ILR (1968) 2 Punj & Har 42 (FB), **Reversed**—See Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968), S. 3 (Oct) 903F

—R. 105—Ruling of Speaker of legislature adjourning the House in face of S. 3 of Punjab Ordinance 1 of 1968, without the mandate from majority, under wrong im-

Punjab Legislative Assembly Rules of Procedure and Conduct of Business (*contd.*)

pression that the Ordinance was invalid, can be questioned—Adjournment is null and void—Speaker's ruling cannot be treated as final under R. 112. ILR (1968) 2 Punj & Har 42 (FB), **Reversed**—See Constitution of India, Art. 226 (Oct) 903G

—R. 112—Ruling of Speaker of legislature, adjourning the House in face of S. 3 of Punjab Ordinance 1 of 1968, without the mandate from majority, under wrong impression that the Ordinance was invalid, can be questioned—Adjournment is null and void—Speaker's ruling cannot be treated as final under R. 112. ILR (1968) 2 Punj & Har 42 (FB), **Reversed**—See Constitution of India, Art. 226 (Oct) 903G

Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968)—Governor proroguing legislature and promulgating Punjab Ordinance, 1 of 1968, to enable Legislature to transact financial business—Action of Governor cannot be questioned on grounds of error of judgment or mala fides — ILR (1968) 2 Punj & Har 42 (FB), **Reversed** — See Constitution of India, Art. 209 (Oct) 903E

—Preamble— Ordinance promulgated after prorogation of Legislature — Ordinance is valid (Oct) 903D

—S. 3—Section is not ultra vires—Article 209 gives full authority to S. 3—No inconsistency between the section and R. 105 of Rules of Procedure and Conduct of Business —Article 189 (4) cannot be abrogated—ILR (1968) 2 Punj & Har 42 (FB), **Reversed** (Oct) 903F

—S. 3—Ruling of Speaker of legislature, adjourning the House in face of S. 3 of Punjab Ordinance 1 of 1968, without the mandate from majority, under wrong impression that the Ordinance was invalid, can be questioned — Adjournment is null and void—Speaker's ruling cannot be treated as final under R. 112. ILR (1968) 2 Punj. & Har 42 (FB) **Reversed**.—See Constitution of India, Art. 226 (Oct) 903G

Punjab Panchayat Samities and Zilla Parishads Act (3 of 1961)

See under Panchayats.

Punjab Panchayat Samities and Zilla Parishads Non-Official Members (Payment of Allowances) Rules (1965)

See under Panchayats.

Punjab Police Rules (1934)

See under Civil Services.

Punjab Relief of Indebtedness Act (7 of 1934)

See under Debt Laws.

Punjab Sales Tax Act (46 of 1948)

See under Sales Tax.

Punjab Security of Land Tenures Act (10 of 1953)

See under Tenancy Laws.

Railway Coaching Tariff Rules, R. 108 (2) (8)
—Coal consigned to Company by Colliery on orders and sanction of Deputy Coal Commissioner (Distribution) under Colliery Control Order, 1945 which was then in force—Sanction and order at instance of Company—Wagons supplied by Railway on order by Coal Commissioner—Refusal of Company to take delivery—Railway selling coal and suing company for demurrage—Normally consignee is liable—On facts also that Colliery acted as an agent of company—Duty of Railway pointed out—Extent of liability of consignee—See Railways Act (1890), S. 56 (Mar) 193

Railway Establishment Code

See under Civil Services.

Railways Act (9 of 1890) S. 2 (13)—Word rates merely mean scale or amount of any other charges—See Railways Act (1890), S. 41 (1) (c) (Aug) 630B

—S. 3 (6) (prior to its amendment in 1961), —Service of notice on Chief Commercial Manager (Claims and Refunds) of Bengal and Assam Railway held sufficient—AIR 1962 Cal 42, Reversed—See Railways Act (1890) (prior to its amendments in 1961), S. 77 (Jan) 23A

—S. 29 (2)—Word rates merely means scale or amount of any other charges—Definition of word 'rate' cannot possibly be applied to S. 29 (2)—See Railways Act (1890), S. 41 (1) (c) (Aug) 630B

—S. 41—Complaint under S. 41 of Railways Act by a company provided with assisted siding—Question of revision of hauling charges—Railway Tribunal is competent to decide question—See Constitution of India Art. 136 (Aug) 630A

—Ss. 41(1) (c), 29 (2), 2 (13)—Word "rates" merely means scale or amount of any other charges—Definition of word "rate" cannot possibly be applied to Sec. 29 (2)—Complaint against hauling charges under S. 41 (1) (c) is maintainable (Aug) 630B

—S. 56—Coal consigned to Company by Colliery on orders and sanction of Deputy Coal Commissioner (Distribution) under Colliery Control Order, 1945 which was then in force—Sanction and order at instance of Company—Wagons supplied by Railway on order by Coal Commissioner—Refusal of Company to take delivery—Railway selling coal and suing company for demurrage—Normally consignee is liable—On facts also held, that Colliery acted as agent of company and was responsible for payment of freight and demurrage charges—Duty of Railway pointed out—Extent of liability of consignee

Railways Act (contd.)

—Contract Act (1872), Ss. 2, 186 and 149—Railway Coaching Tariff Rules, R. 108 (2) and (8)—Tort—Damages—Duty to minimise (Mar) 193

—S. 72 (before its amendment in 1961)—Claim against State owned Railway—It does not behove the State to contest a good claim on the off-chance of success on some unsubstantial technical plea—See Constitution of India, Art. 300 (Jan) 23C

—S. 74.C (3)—Proof of negligence—Duty of Railway administration to disclose how consignment was dealt with—It is only if negligence cannot be inferred from Administration's evidence, that burden of proving negligence shifts to consignor—See Railways Act (1890), S. 74-D (Oct) 817A

—S. 74-D and 74.C (3)—Proof of negligence—Duty of Railway administration to disclose how consignment was dealt with—It is only if negligence cannot be inferred from Administration's evidence that burden of proving negligence shifts to consignor (Oct) 817A

—Ss. 74-E—Section does not enlarge liability of railway administration to which consignment was not delivered—Such administration can be sued only if loss occurred on its railway—S. 74E does not restrict liability imposed by S. 80—See Railways Act (1890), S. 80 (Oct) 817B

—Ss. 77, 140 and 3 (6) (prior to its amendment in 1961)—Notice—Bengal and Assam Railway—Service on Chief Commercial Manager (Claims and Refunds), held sufficient—AIR 1962 Cal 42, Reversed (Jan) 23A

—Ss. 80 and 74-E—Goods booked through over railway of two railway administrations—Loss caused by negligence—Suit for compensation for loss can be brought against administration to which goods were delivered irrespective of whether loss occurred on that Railway—S. 74-E does not affect liability under S. 80—AIR 1920 Oudh 70 & AIR 1956 Cal 390, Overruled (Oct) 817B

—S. 140 (Prior to its amendment in 1961)—Service of notice on Chief Commercial Manager (Claims and Refunds) of Bengal and Assam Railway held sufficient—AIR 1962 Cal 42, Reversed. See Railways Act (1890) (prior to its amendment in 1961) S. 77 (Jan) 23A

Rajasthan Premises (Control of Rent and Eviction) Act (17 of 1950)

See under Houses and Rents.

Rajasthan Sales Tax Act (29 of 1954)

See under Sales Tax.

Rajasthan Sales Tax Rules (1955)

See under Sales Tax.

Registration Act (16 of 1908), S. 17—Documents of which registration is necessary

Registration Act (contd.)

under T. P. Act but not under Registration Act—Documents fall within scope of S. 49—AIR 1928 All 726 (FB) and AIR 1921 Mad 337 (FB) and AIR 1917 Bom 203, held no longer good law in view of T. P. (Amendment) Supplementary Act (21 of 1929) — See Registration Act (1908), S. 49 (Dec) 1316A

—S. 17 (1) (b) — Non-testamentary instrument creating charge of value of Rs. 100/- or upwards must be registered under S. 17 (1) (b) — But there is no provision requiring that instrument creating charge must be attested — AIR 1939 Mad 202 and AIR 1940 Mad 140, **Overruled**; O.S.A. Nos. 65, 70, 71 of 1956, D/- 23-7-1961 (Mad) **Reversed** — See Transfer of Property Act (1882), S. 100 (Dec) 1147B

—S. 47 — Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962), S. 16 — Right of reconveyance under S. 16 — Accrual of — It accrues only when registration of sale deed is completed as required by Ss. 60 and 61 Registration Act and not before — See Tenancy Laws — Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962), S. 16 (Mar) 244C

—Ss. 49, 17 — Transfer of Property Act (1882), Ss. 54, 4 — Documents of which registration is necessary under T. P. Act but not under Registration Act — Documents fall within scope of S. 49 of Registration Act — AIR 1928 All 726 (FB) and AIR 1921 Mad 337 (FB) & AIR 1917 Bom 203, Held no longer good law in view of T. P. (Amendment) Supplementary Act (21 of 1929) (Dec) 1316A

—S. 59 — Registering officer putting his signature on document in discharge of his duty under S. 59 — He is not attesting witness under S. 3, T. P. Act — See Transfer of Property Act (1882), S. 3 (Dec) 1147A

—S. 60 — Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962), S. 16 — Right of reconveyance under S. 16 — Accrual of — It accrues only when registration of sale deed is completed as required by Ss. 60 and 61, Registration Act and not before — See Tenancy Laws—Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962), S. 16 (Mar) 244C

—S. 61 — Tenancy Laws — Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962), S. 16 — Right of reconveyance under S. 16 — Accrual of — It accrues only when registration of sale deed is completed as required by Ss. 60 and 61, Registration Act and not before — See Tenancy Laws — Bihar

Registration Act (contd.) -

Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962), S. 16 (Mar) 244C

Representation of the People Act (43 of 1951), S. 7 (d) — Contract by acceptance of tender by State Government not complying with Art. 299 (1) of Constitution—Contract treated as binding subsisting contract by parties — Person entering into contract incurs disqualification for membership to State Legislature — See Representation of People Act (1951), S. 9A (Apr) 302B

—S. 9-A, *Explanation* — Applicability — Contract not fully performed by contractor — No evidence to show termination of contract by mutual consent — Explanation does not apply (Apr) 302A

—Ss. 9-A and 7 (d) — Disqualification for membership to State Legislature — Contract by acceptance of tender by State Government not complying with Art. 299 (1) of Constitution — Contract treated as binding subsisting contract by parties — Person entering into contract incurs disqualification (Apr) 302B

—S. 9-A — Agreement by partnership firm with Government to construct road and buildings — Contractor also agreeing to repair for stipulated period all defective parts in execution of contract—Non-completion of certain items covered by contracts—Held, contract was subsisting and partner of firm was disqualified to contest — Election Petn. No. 8 of 1967, D/- 15-9-1967 (Mys), **Reversed** (June) 447A

—S. 9-A — Contract of construction of road and building with State Government — The fact that contract was signed by Executive Engineer and not by Secretary to the Government as required by Art. 299 of Constitution of India does not save bar of election law to candidature (June) 447B

—S. 9-A—Only two contesting candidates — Returned candidate under statutory disqualification at date of filing nomination paper — No fresh poll is necessary — The other contesting candidate can be declared elected — AIR 1960 S C 131, **Overruled**—See Representation of the People Act (1951), S. 84 (July) 604

—S. 10 — Transfer of undertaking from Government to a company — Indirect control exercisable by Government — Post of superintendent, Safety Engineering Department of company is not office of profit under Government and not disqualified under Art. 191 (1) (a) — See Representation of the People Act (1951), S. 100 (1) (a) (Sep) 744B

—S. 33 — Plea about affirmation — Can be allowed to be raised for first time in appeal

Representation of the People Act (contd.)

as alternative legal position—See Representation of the People Act (1951), S. 116-A

(Nov) 1034A

—Ss. 33 (5), 36 (2) (b) — Requirements of valid nomination paper — Non-compliance—Candidate merely producing certificate from officer who was not authorised to issue certified copy of electoral roll — Certificate based on gist of relevant entry given in affidavit of candidate attached to such certificate — Returning Officer is justified in rejecting nomination paper under S. 36 (2) (b) (May) 395A

—S. 36 (2) (a) — Filing of nomination paper—Failure to subscribe oath or affirmation before authorised officer — Nomination paper is liable to be rejected — See Constitution of Jammu and Kashmir (1956), S. 51 (a) (Dec) 1111

—S. 36 (2) (a) — Plea about affirmation — See Representation of the People Act (1951), S. 116-A (Nov) 1034A

—S. 36 (2) (a) — Oath or affirmation must be before date of scrutiny. AIR 1968 Mys 18, **Reversed** — See Constitution of India, Art. 173 (a) (Nov) 1034B

—S. 36 (2) (a) — Candidate nominated for more than one constituency — No necessity of repeated affirmation contemplated under Art. 173 (a). AIR 1968 Mys 18, **Reversed** on another point — See Constitution of India, Art. 173 (a) (Nov) 1034D

—S. 36 (2) (b) — Requirements of valid nomination paper — Non-compliance—Candidate merely producing certificate from officer who was not authorised to issue certified copy of electoral roll — Certificate based on gist of relevant entry given in affidavit of candidate attached to such certificate—Returning officer is justified in rejecting nomination paper — Order of rejection cannot be recalled on subsequent production of relevant evidence — See Representation of the People Act (1951), S. 33 (5) (May) 395A

—S. 37—Candidate duly nominated continues to be so for purpose of S. 82 (b) inspite of his withdrawal — See Representation of the People Act (1951), S. 86 (1) (Aug) 677A

—S. 53—Only two contesting candidates — Returned candidate under statutory disqualification at date of filing nomination paper — No fresh poll is necessary — The other contesting candidate can be declared elected. AIR 1960 SC 131, **Overruled**—See Representation of the People Act (1951), S. 84 (July) 604

—S. 77—Expression 'expenditure in connection with election incurred or authorised' in S. 77 (1), meaning of — Payment to

Representation of the People Act (contd.)

secure a seat is an expenditure in connection with election—Deposit made by returned candidate for securing congress ticket forfeiting between the two dates prescribed under S. 77 (1)—Amount of deposit if included in return of election expenses declared by him exceeding the prescribed limit — Held, there was contravention of S. 77 (3) and the candidate was guilty of corrupt practice under S. 123 (6) read with S. 77 (3) — See Representation of the People Act (1951), S. 123 (6) (Apr) 288

—S. 81 (as amended in 1966) — One of the candidates made to withdraw on payment to him of illegal gratification by another candidate—Taint of corrupt practice attaches both to the payee and payer of illegal gratification—Candidate withdrawing is a necessary party to election petition — See Representation of the People Act (1951) (as amended in 1966), S. 82 (Oct) 872A

—Ss. 81, 82, 86 (5), 87, 116-A (as amended in 1966)—Election petition — Necessary party not joined within limitation for filing petition—High Court has no power to allow addition after limitation — Limitation Act does not apply — Civil P. C., O. 6, R. 17 and O. 1, R. 10 have no application—Application will be dismissed (Oct) 872B

—S. 81—Election petition—Presentation—Petition presented to registry by advocate's clerk in immediate presence of petitioner — Held, that in substance though not in form it was presented by the petitioner himself and the requirement of law was fully satisfied (Nov) 1024A

—Ss. 82, 81 and 100 (as amended in 1966) — One of the candidates made to withdraw on payment to him of illegal gratification by another candidate—Taint of corrupt practice attaches both to the payee and payer of illegal gratification—Candidate withdrawing is a necessary party to election petition (Oct) 872A

—S. 82 (as amended in 1966)—Election petition — Necessary party not joined within limitation for filing petition — High Court has no power to allow addition after the limitation — Limitation Act does not apply — Civil P. C., O. 6, R. 17 and O. 1, R. 10 have no application — See Representation of the People Act (1951 as amended in 1966), S. 81 (Oct) 872B

—S. 82 (b)—Election petition — Candidate against whom charge of corrupt practice is made must be joined as party — Candidate duly nominated continues to be so for purpose of S. 82 (b) inspite of his withdrawal — See Representation of the People Act (1951), S. 86 (1) (Aug) 677A

Representation of the People Act (contd.)

—S. 82 (b)—Election Petitions — Amendment of petition and joining of parties — Question whether Ss. 4 to 25 of Limitation Act apply (Quaere) — See Representation of the People Act (1951), S. 83 (Aug) 677B

—Ss. 83, 86, 82 (b)—Limitation Act (1963), S. 29 (2)—Election petitions—Amendment of petition and joining of parties — Question whether Ss. 4 to 25 of Limitation Act apply (Quaere) (Aug) 677B

—S. 83—Election petition — Pleading and proof — Plea of corrupt practice of hiring or procuring motor cars to carry voters—Particulars of cars and voters given—Connection of candidate with use of cars sufficiently pleaded — As to who hired or procured cars is matter of evidence—See Representation of the People Act (1951), S. 125 (5) (Aug) 692B

—S. 83—Section is mandatory — Distinction between material facts and particulars — The entire and complete cause of action must be stated in the petition in the shape of material facts — Function of particulars is to give necessary information to present full picture of the cause of action (Dec) 1201B

—S. 83 (1) (c)—Corrupt practice by undue influence must be pleaded — Pleadings must set out full facts — See Representation of the People Act (1951), S. 123 (2) (July) 583A

—S. 83 (1) (b)—Election petition—Candidate against whom charge of corrupt practice is made must be joined as party—Candidate duly nominated continues to be so for purpose of S. 82 (b) in spite of his withdrawal—See Representation of the People Act (1951), S. 86 (1) (Aug) 677A

—S. 83 (1) (b) — Mandatory provision — Particulars of corrupt practice in election petition — Evidence cannot be adduced regarding charge not disclosed in particulars (Aug) 734A

—Ss. 84, 101, 9-A and 53 (as amended by Act 47 of 1966)—Only two contesting candidates — Returned candidate found to be under statutory disqualification at date of filing nomination paper — Votes cast in his favour may be regarded as thrown away, irrespective of whether voters who voted for him were aware of the disqualification—No fresh poll is necessary — The other contesting candidate can be declared elected. AIR 1960 SC 131, Overruled (July) 604

—S. 86—Election petitions— Amendment of petition and joining of parties—Question whether Ss. 4 to 25 of Limitation Act apply (Quaere) — See Representation of the People Act (1951), S. 83 (Aug) 677B

—Ss. 86 (1), 82 (b), 79, 37, 83 (b)—Election petition—Candidate against whom charge of

Representation of the People Act (contd.)

corrupt practice is made must be joined as party—Candidate duly nominated continues to be so for purpose of S. 82 (b) in spite of his withdrawal (Aug) 677A

—S. 86 (5) (as amended by Act 47 of 1966) —Particulars of corrupt practice in election petition — Leave to amend, when can be granted (Aug) 734B

—S. 86 (5) (as amended by Act 47 of 1966) —Particulars of corrupt practice in election petition—Grant of amendment in particulars resulting in manifest injustice — Supreme Court has power and duty to remedy it. Election Petition No. 22 of 1967, D/- 23.4.1968 (Guj), Reversed—See Representation of the People Act (1951) (as amended by Act 47 of 1966), S. 116-A (Aug) 734C

—S. 86 (5)—Election petition—Necessary party not joined within limitation for filing petition—High Court has no power to allow addition after the limitation — Limitation Act does not apply — Civil P. C., O. 6, R. 17 and O. 1, R. 10 have no application — See Representation of the People Act (1951 as amended in 1966), S. 81 (Oct) 872B

—S. 86 (5) — Power of amendment—Corrupt practice by an agent other than election agent alleged in the petition—Particulars alleging corrupt practice by returned candidate, cannot be supplied by way of amendment (Dec) 1201C

—S. 87 — Election petition—Necessary party not joined within limitation for filing petition — High Court has no power to allow addition after the limitation—Limitation Act does not apply—Civil P. C. O. 6, R. 17 and O. 1, R. 10 have no application — See Representation of the People Act (1951 as amended in 1966), S. 81 (Oct) 872B

—S. 90—Election petition—Allegation of corrupt practice — Application under O. 16, R. 14, Civil P. C. to examine one P — Petitioner's version found to be not true — Held, there was no compelling reason for High Court to examine P as a Court witness or even to draw inference from failure to examine P — AIR 1963 Mys 18, Reversed on another point (Nov) 1034E

—Ss. 90 (1), 123 (5), 98—Election Tribunal has power under O. 16, R. 14, C. P. C. to suo motu summon court witnesses (Aug) 692A

—S. 99 (a) (1) (ii)—Name of candidate appearing to be connected with corrupt practice—Proof whereof, not before Court but can be brought—Court has power to name him guilty of corrupt practice after giving him notice—See Representation of the People Act (1951), S. 90 (1) (Aug) 692A

—S. 98—Evidence of Retuning Officer—Value of—AIR 1963 Mys 18 Reversed on

Representation of the People Act (contd.)

another point — See Evidence Act (1872), S. 3 (Nov) 1034F
 —S. 99—Section does not apply to person who is not a necessary party (Oct) 872C

—S. 99 (1) (a) (ii) — Power to name persons guilty of corrupt practice, can be exercised by passing supplementary order—There is no need to review original order (Aug) 692D

—S. 100—Absence of proof of free conveyance of voters in particular vehicle — Election of returned candidate cannot be declared as void—See Representation of the People Act (1951), S. 123 (5) (July) 586A

—S. 100—Election petition—Pleas—Contention about wrong refusal of demand of general recount—Absence of plea in this regard—Mention of general recount only in relief clause of petition—Held under the circumstances, that there was no room for further count—See Representation of the People Act (1951), S. 116A (July) 586B

—S. 100—Costs in Supreme Court Appeals — Dismissal of election petition as well as appeal therefrom—Prevarications of returned candidate not attempted to be explained by his counsel — Petitioner not allowed any costs either in Supreme Court or in High Court—See Civil P. C. (1908), S. 35 (July) 586C

—S. 100—One of the candidates made to withdraw on payment to him of illegal gratification by another candidate—Taint of corrupt practice attaches both to the payee and payer of illegal gratification—Candidate withdrawing is a necessary party to election petition—See Representation of the People Act (1951 as amended in 1966), S. 82 (Oct) 872A

—S. 100—Plea that affirmation should have been made before date of scrutiny taken for first time in appeal — Effect — See Representation of the People Act (1951), S. 116A (Nov) 1034A

—S. 100 (1) (a)—Disqualification—Industrial Disputes Act (1947), Ss. 25FF, 2 (S)—Transfer of Government undertaking to a company—Workman thereof ceases to be Government servant — Election to Legislative Assembly—Workman is not disqualified to be a candidate under Art. 191 (1) (a) of Constitution (Sep) 744A

—S. 100 (1) (a)—Transfer of undertaking from Government to a Company—Indirect control exercisable by Government because of its power to appoint directors and to give general directions—Post of Superintendent, Safety Engineering Department of Company is not office of profit under Government—

Representation of the People Act (contd.)

Disqualification under Art. 191 (1) (a), held not applicable to person holding such post (Sep) 744B

—Ss. 100 (1) (b), 100 (1) (d), 123 (4)—Corrupt practice charged against an agent other than election agent — Petitioner must prove consent on the part of returned candidate to the commission of corrupt practice — Consent on the part of returned candidate if not proved, case will fall under S. 100 (1) (d) not under S. 100 (1) (b)—Proof that the corrupt practice materially affected the poll must be adduced (Dec) 1201A

—Ss. 100 (1) (d) (ii)—Election to be void under—That the election was materially affected, in so far as the returned candidate was concerned, requires proof, and cannot be considered on possibility (Dec) 1201F

—S. 100 (1) (d) (iv) — Election Petition—Election in contravention of Act and rules — Election petitioner must further prove that result of election has been materially affected—Ele. Petn. Case No. 2 of 1967, D/- 10-1-1968 (Mani), Reversed (Aug) 663A
 —S. 100 (1) (d) (v)—Burden to prove that election was materially affected—Burden placed on election petitioner even though very strict, Courts should apply it—It is for Legislature and not for Courts to consider whether it is to be altered — See Civil P. C. (1908), Pre—Interpretation of Statutes (Aug) 663B

—S. 101—Only two contesting candidates — Returned candidate under statutory disqualification at date of filing nomination paper—Votes cast in his favour may be regarded as thrown away — No fresh poll is necessary—The other contesting candidate can be declared elected. AIR 1960 S C 131, Overruled — See Representation of the People Act (1951), S. 84 (July) 604

—S. 101—Voting by single transferable vote—More than two candidates contesting — Election petition on ground of corrupt practice of hiring or procuring motor vehicles to carry voters successful — Election of returned candidates set aside — Candidate getting next highest number of votes cannot be declared elected because that would be guess work — Elen. Petn. No. 11 of 1967 D/- 28-5-1968 (Mad), Reversed (Aug) 692C

—S. 112, 116—Election petition alleging corrupt practice — Dissolution of Assembly — Petition does not abate (Nov) 1024B

—S. 116—Election petition alleging corrupt practice—Dissolution of Assembly — Petition does not abate — See Representation of the People Act (1951), S. 112 (Nov) 1024B

—S. 116A—Appeal to Supreme Court—Finding of fact and appreciation of evidence

Representation of the People Act (contd.)
of fact and appreciation of evidence — Practice—Supreme Court should be slow to depart from the conclusion of the trial Judge (May) 395B
—*Ss. 116A, 100*—Election Petition—Pleas
Contention about wrong refusal of demand of general recount—Absence of plea in this regard — Mention of general recount only in relief clause of petition—Held, under the circumstances that there was no room for further count (July) 586B
—*S. 116A*—Costs in Supreme Court Appeals—Dismissal of election petition as well as appeal therefrom—Prevarications of returned candidate not attempted to be explained by his counsel — Petitioner not allowed any costs either in Supreme Court or in High Court—*See Civil P. C. (1908), S. 35* (July) 586C
—*S. 116A*—Appeal under — Argument running counter to allegation in amendment petition cannot be entertained (Aug) 677C
—*Ss. 116A and 86 (5) (as amended by Act 47 of 1966)*—Particulars of corrupt practice in election petition—Grant of amendment in particular resulting in manifest injustice — Supreme Court has power and duty to remedy it. Election Petition No. 22 of 1967, D/ 23-4-1968 (Guj), **Reversed** (Aug) 734C
—*S. 116A*—Election petition—Necessary party not joined within limitation for filing petition — High Court has no power to allow addition after the limitation—*See Representation of the People Act (1951 as amended in 1966), S. 81* (Oct) 872B
—*S. 116A*—Appreciation of evidence — Findings of fact by High Court are entitled to weight (Nov) 1024C
—*Ss. 116A, 100, 33, 36 (2) (a)*—Appeal against dismissal of election petition against N—Alternative legal position that affirmation should have been made before date of scrutiny taken for first time—Appellant allowed to raise this plea—N held not debarred from putting forward alternative case in reply (Nov) 1034A
—*S. 123*—Election petition — Charge of corrupt practice — Speeches made during election campaign—Notes taken down by members of police force—Speeches, as evidence of corrupt practice, can be proved by producing members of police force as witnesses—*See Evidence Act (1872), S. 160* (Oct) 851A
—*S. 123*—Corrupt practice charged against an agent other than election agent—Consent on part of returned candidate if not proved case will fall under *S. 100 (1) (d)* and not under *S. 100 (1) (b)*—*See Representation of the People Act (1951), S. 100 (1) (b)* (Dec) 1201A

Representation of the People Act (contd.)
—*S. 123 (2) (u)* — Corrupt practice — Undue influence—Speech exhorting voters that if they voted for the Congress or a Congress candidate they would be committing the sin of go-hatya amounts to an attempt to induce voters to believe that they would become objects of divine displeasure or spiritual censure falling within the mischief of *S. 123 (2) (ii)* (May) 395C
—*Ss. 123 (2) and 83 (1) (c)*—Corrupt practice by undue influence must be pleaded—Pleadings must set out full facts (July) 583A
—*S. 123 (2), Proviso (a), Cl. (u)*—Speaker warning that vote for Congress would make the voter partner in sin of go-hatya — Speech, held fell under the provision, in view of status and character of speaker and audience (Aug) 734D
—*S. 123 (2) and (3)*—Law does not place any bar on describing a party as irreligious (Oct) 851B
—*S. 123 (2) and (3)*—Applicability—Inference under—Can be drawn only if statement is made by person who is religious head of majority of electors in the Constituency (Oct) 851C
—*S. 123 (2) and (3)*—Appeal to voters to vote for particular person because he is Brahmin and one minister must be a Brahmin—It is an appeal to vote on ground of that person's caste (Per Majority: Hegde, J., **Dissenting**) (Oct) 851D
—*S. 123 (4)*—Publication of statement of some fact which is false is essential in order to bring case under *S. 123 (4)* (July) 583B
—*S. 123 (4)* — Corrupt practice by an agent other than election agent—Consent of returned candidate to the commission of—Direct or circumstantial evidence necessary to prove consent—Mere knowledge or connivance or similarities of ideas not enough to infer consent (Dec) 1201E
—*Ss. 123 (5), 100*—Scope—Proof of ingredients—Burden lies on election petitioner—Absence of proof of free conveyance of voters in particular vehicle—Election of returned candidate cannot be declared void (July) 586A
—*S. 123 (5)*—Election Tribunal has power under O. 16, R. 14, Civil P. C., to suo motu summon Court witnesses—*See Representation of the People Act (1951), S. 90 (1)* (Aug) 692A
—*Ss. 123 (5), 83* — Election petition — Pleading and proof—Plea of corrupt practice of hiring or procuring motor cars to carry voters—Particulars of cars and voters given—Connection of candidate with use of cars sufficiently pleaded — As to who hired or procured cars is matter of evidence (Aug) 692B

Representation of the People Act (contd.)

—*Ss. 123 (6) and 77*—Expression 'expenditure in connection with election incurred or authorised' in S. 77 (1), meaning of—Payment to party to secure a ticket for standing as party candidate is an expenditure in connection with election—Deposit made by returned candidate for securing Congress ticket forfeited in accordance with party rules between the two dates prescribed under S. 77 (1)—Amount of deposit if included in return of election expenses declared by him exceeding the prescribed limit—Held, there was contravention of S. 77 (3) and the candidate was guilty of corrupt practice under S. 123 (6) read with S. 77 (3) (Apr) 288

Rules of Procedure and Conduct of Business in Lok Sabha—*R. 300 (as framed under Art. 118 (2), Constitution of India)*—Rule envisages that requirement of R. 81 in respect of amendment moved in house will have to be complied with when similar amendment is moved in select committee—*See* Constitution of India, Art. 304 (b), Proviso (June) 504B

—*R. 81 (as framed under Art. 118 (2), Constitution of India)*—Rule 81 deals with procedure when an amendment is moved—*See* Constitution of India, Art. 304 (b), Proviso (June) 504B

—*R. 65 (2) (as framed under Art. 118 (2), Constitution of India)*—Sub-rule (2) ensures compliance with proviso to Art. 304, Constitution of India—*See* Constitution of India, Art. 304 (b), Proviso (June) 504B

SALES TAX

—**Central Sales Tax Act (74 of 1956), S. 2 (b)**
—**Madras General Sales Tax Act (1 of 1959), S. 2 (g)**—Business of manufacture and sale of machinery and its parts—Purchase of arc furnaces for use in foundry of the assessee—On finding them unsuitable, furnaces sold at profit—Proceeds of sale do not form part of business turnover—He cannot be deemed as dealer in arc furnaces (May) 348

—*Ss. 8 (2), (2A) and (5)*—Not ultra vires Arts. 301 and 303 (1)—Writ Petn. No. 836 of 1966, D/- 7-4-1967 (Mad), **Reversed**—*See* Constitution of India, Art. 301 (Feb) 147

—*S. 14*—Seeds separated by ginning cotton is not cotton itself—Orders in L. P. Appeals Nos. 33, 36 and 100 of 1965 dated 10-2-1965 and No. 74 of 1965 dated 31-3-1965 (Punjab High Court), judgment and order in Civil Court No. 2159 and 2309 of 1963 dated 28-9-1964 (Punjab High Court), **Reversed**—*See* Sales Tax—Punjab Sales Tax Act (46 of 1948), S. 5 (2) (a) (vi) (Nov) 1073

—*S. 15*—Purchase of unginced cotton—Sale, after ginning, of ginned cotton and cotton seeds separately to registered dealers—

Sales Tax—Central Sales Tax Act (contd.)

Purchase tax paid on unginced cotton—Assessee is not entitled to deduction of sale price of cotton seeds—Orders in L. P. Appeal No. 33, 36 and 100 of 1965 dated 10-2-1965 and No. 74 of 1965 dated 31-3-1965 (Punjab High Court), judgment and order in Civil Writ No. 2159 and 2309 of 1963 dated 28-9-1964 (Punjab High Court), **Reversed**, (1964) 15 STC 865 (Punjab), **Overruled**—*See* Sales Tax—Punjab Sales Tax Act (46 of 1948), S. 5 (2) (a) (vi) (Nov) 1073

—**Kerala General Sales-tax Act (15 of 1963), S. 2 (viii) Cl. (e)**—"Produced"—Meaning—Sale of trees of spontaneous growth—Not taxable (Nov) 930

—**M. B. Sales Tax Act (30 of 1950), S. 17**—Suit for declaration that provisions of law relating to assessment were ultra vires and for refund of tax illegally collected was not barred by S. 17—*See* Civil Procedure Code (5 of 1908), S. 9 (Jan) 78

—**M. P. General Sales Tax Act (2 of 1959), S. 2 (d)**—"Dealer"—Who is—Person carrying on business of buying is also a dealer (Dec) 1276B

—*S. 7*—Purchase of taxable commodities in course of business by dealer—Consumption thereof otherwise than in manufacture of goods for sale—Purchase price of commodities is liable to tax (Dec) 1276C

—*S. 18 (5)*—**M. P. General Sales Tax Rules (1959), Rule 33**—Requirement under, of giving 15 days' period to show cause against assessment—Non-compliance with—Does not invalidate notice under S. 18 (5) in absence of any prejudice to assessee (Dec) 1276A

—**M. P. General Sales Tax Rules (1959), R. 33**—Requirement of giving 15 days' period to show cause against assessment—Non-compliance with—Does not invalidate notice under S. 18(5) of M. P. General Sales Tax Act in absence of any prejudice to assessee—*See* Sales Tax—M. P. General Sales Tax Act (2 of 1959), S. 18 (5) (Dec) 1276A

—**Madras General Sales Tax Act (1 of 1959), S. 2 (g)**—Business of manufacture and sale of machinery and its part—Purchase of arc furnaces for use in foundry of the assessee—On finding them unsuitable, furnaces sold at profit—Proceeds of sale do not form part of business turnover—He cannot be deemed as dealer in arc furnaces—*See* Sales Tax—Central Sales Tax Act (1956), S. 2 (b) (May) 348

—**Punjab Sales Tax Act (46 of 1948), S. 5 (2) (a) (vi)**—Central Sales Tax Act (1956), Ss. 14, 15—Purchase of unginced cotton—Sale, after ginning, of ginned cotton and cotton-seeds

Sales Tax—Punjab Sales Tax Act (contd.)
separately to registered dealers — Purchase tax paid on unginned cotton — Assessee not entitled to deduction of sale price of cotton-seeds under S. 5 (2) (a) (vi) — Orders in L. P. A. Nos. 38, 36, 100 and 74 of 1965, D/- 10-2-1965, 31-3-65 and 19-3-65 respectively (Punj.) and the judgment and order in Civil Writ Nos. 2159 and 2309 of 1963, D/- 28-9-1964, (Punj.), **Reversed**; (1964) 15 S T C 865 (Punj.) **Overruled** (Nov) 1073

—**Rajasthan Sales Tax Act (29 of 1954), S. 2 (o)**—Sale — Works contract — Contract for fixing special type of steel windows as per specifications — Predominant idea being fixing of windows — 'Fixing,' held would require special technical skill and contract is a works contract and not contract of sale (Dec) 1245

—**S. 2 (o), (s) and (t)**—Agreement between State and assessee acting as agent of coal company—Supply to coal by assessee—Price fixed under Colliery Control Order — Transaction held one of sale of goods. ILR (1965) 15 Raj 603, **Reversed** — *See* Sales Tax — Rajasthan Sales Tax Act (29 of 1954), S. 3 (May) 343A

—**Ss. 3, 2 (o), (s) and (t)** — Colliery Control Order (1945), Cl. 4 — Turnover from sale of goods—Liability to tax — Essential elements — Agreement between State and assessee acting as agent of a Coal Company to sell coal—Price fixed under Colliery Control Order — Effect of Control Order — Supply of coal by assessee — Transaction held one of sale of goods — Turnover liable to tax. ILR (1965) 15 Raj 603, **Reversed** (May) 343A

—**S. 3**—Inter-State sales — Order of assessment of sales tax for entire assessment year 1955-56—S. 3 of Act of 1956 validating levy of sales tax on inter-State sales till 6th September 1955 — Writ of mandamus can be issued directing State not to realise sales tax except with regard to transactions of sale between the period April, 1955 and 6th September 1955 both days inclusive—ILR (1965) 15 Raj 603, **Reversed**—*See* Sales Tax—Sales Tax Laws Validation Act (1956), S. 2 (May) 343B

—**S. 26**—Act receiving assent of President on 22-12-1954 but coming into force on 1-4-55 — Rules framed under S. 26 of Act published on 28-3-55—Rajasthan Sales Tax Rules (1955) — Rules held legally operative from 1-4-55, by reason of S. 22, General Clauses Act read with S. 29, Sales Tax Act — Civil Writ Petn. No. 401 of 1963 D/- 3-4-65 (Raj), **Reversed** (Oct) 850A

—**S. 29**—Act receiving assent of President on 22-12-54 but coming into force on 1-4-55

Sales Tax—Rajasthan Sales Tax Act (contd.)
—Rules framed under S. 26 of Act published on 28-3-55—Rajasthan Sales Tax Rules (1955) — Rules held legally operative from 1-4-55 by reason of S. 22, General Clauses Act read with S. 29, Sales Tax Act — Civil Writ Petn. No. 401 of 1963, D/- 3-4-1965 (Raj), **Reversed** (Oct) 850A

—**Sales Tax Laws Validation Act (7 of 1956), S. 2**—Rajasthan Sales Tax Act (29 of 1954), S. 3—Inter-State sales — Order of assessment of sales tax for entire assessment year 1955-56—Section 2 of Act of 1956 validating levy of sales tax on inter-State sales till 6th September 1955 — Writ of mandamus can be issued directing State not to realise sales tax except with regard to transactions of sale between the period 1st April 1955 and 6th September 1955 both days inclusive. I L R (1965) 15 Raj 603, **Reversed** (May) 343B

—**U. P. Sales Tax Act (15 of 1948), S. 3A**—Notification under exempting medicinal and pharmaceutical preparations except (i) those imported from outside State and (ii) those manufactured in State at point of sale by manufacturer — Medical practitioner dispensing his own prescriptions for his patients, is not manufacturer of medicinal produce — Dispensed drug is not manufactured medicinal product—Exception (ii) does not apply—"Manufacture," meaning of (June) 499

Sales Tax Laws Validation Act (7 of 1956)
See under Sales Tax.

Saurashtra Agricultural Debtors Relief Act (23 of 1954)
See under Debt Laws.

Saurashtra Land Reforms Act (25 of 1951)
See under Tenancy Laws.

SHOPS AND ESTABLISHMENTS

—**Bihar Shops and Establishments Act (8 of 1954), S. 9**—Factory declared as an establishment under Bihar Shops and Establishments Act — Overtime payment to workmen — Bihar Shops and Establishments Act has no relevance in deciding the question of overtime wages — *See* Industrial Disputes Act (14 of 1947), S. 2 (rr) (Apr) 306B

—**S. 21**—Factory declared as an establishment under Bihar Shops and Establishments Act — Overtime payment to workmen — Bihar Shops and Establishments Act has no relevance in deciding the question of overtime wages—*See* Industrial Disputes Act (14 of 1947), S. 2 (rr) (Apr) 306B

Shops and Establishments—Bihar Shops and Establishments Act (contd.)

—S. 26 — Industrial Disputes Act (1947), S. 33A—S. 26 of Bihar Act cannot be compared with S. 33A of Industrial Disputes Act, 1947 — Jurisdiction of authority under S. 26 is not a limited jurisdiction as in cases falling under S. 33A: A I R 1964 Pat 180, **Overruled** (Nov) 992C

—S. 26 (1) and (2) (as amended by Act 26 of 1959) — Bihar Shops and Establishments Rules (1955), R. 20 — Jurisdiction of Labour Court under S. 26—It is not limited to cases of misconduct set out in R. 20 (Nov) 992B

—Bihar Shops and Establishments Rules (1955), R. 20—Jurisdiction of Labour Court under S. 26 of Act (8 of 1954) is not limited to cases of misconduct set out in R. 20—See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954) (as amended by Act 26 of 1959), S. 26 (1) and (2) (Nov) 992B

—Bombay Shops and Establishments Act (79 of 1948), Ss. 2 (4), 52 (e) read with S. 62 and Rule 23 (1) of the Rules framed under Act—Words “Commercial Establishment” in S. 2 (4)—Interpretation of—Profession carried on by individual by his personal skill and intelligence—When can fall under Section 2 (4)—Test—Private dispensary of doctor is not commercial establishment—8 Guj L R 395, **Reversed** (Jan) 63

—S. 52 (e) read with S. 62 and Rule 23 (1) of the Rules framed under Act—Private dispensary of doctor is not commercial establishment—Conviction under S. 52 read with S. 62 and Rule 23 (1) is illegal—8 Guj L R 395, **Reversed**—See Shops and Establishments—Bombay Shops and Establishments Act (79 of 1948), S. 2 (4) (Jan) 63

—S. 62—Private dispensary of a doctor is not a ‘commercial establishment’—His conviction under S. 52 read with S. 62 and Rule 23 (1) is illegal—8 Guj L R 395, **Reversed**—See Shops and Establishments—Bombay Shops and Establishments Act (1948), S. 2 (4) (Jan) 63

—S. 67 — Rules under Rule 23 (1)—Dispensary of private doctor is not “Commercial Establishment”—Conviction of doctor under S. 52 read with S. 62 and Rule 23 (1) is illegal—8 Guj L R 395, **Reversed**—See Shops and Establishments—Bombay Shops and Establishments Act (1948), S. 2 (4) (Jan) 63

Sonthal Parganas Settlement Regulation (3 of 1872)

See under Tenancy Laws.

Sonthal Tenancy (Supplementary) Provisions Act (14 of 1949)

See under Tenancy Laws.

Specific Relief Act (1 of 1877), S. 55 — Suit by owner of vehicles against benamidar thereof for declaration and mandatory injunction—Relief can be granted to effectuate transfer of permits — A I R 1967 Mad 100, **Reversed** — See Motor Vehicles Act (1939), S. 2 (3) (Jun) 493A

Stamp Act (2 of 1899)

See under Stamp Duty.

STAMP DUTY

—Stamp Act (2 of 1899), S. 1 — Scope—Provisions are not meant to arm a litigant with technicalities to defeat the claim of the opponent (Dec) 1238B

—Ss. 35 and 36 — Provisions of Section 36 do not create any bar against an instrument not duly stamped being acted upon — A I R 1952 All 996, **Overruled** (Dec) 1238A

—S. 36 — Section does not create any bar against an instrument not duly stamped being acted upon—AIR 1952 All 996, **Overruled** — See Stamp Duty—Stamp Act (1899), S. 35 (Dec) 1238A

Succession Act (39 of 1925), S. 105 — Will — Legatee dying during lifetime of testator — Express intention to exclude lapse not necessary (Dec) 1355F

—S. 105—Will—Bequest of properties for two purposes, namely, celebrating marriage of S and constructing a temple—No allocation of amounts separately—Death of S during lifetime of testator — Held, that there was no joint bequest and it should be presumed that the fund was to be utilised in equal moieties for two purposes—Failure of one of the purposes by death of S before testator's death would result in a moiety of the amount devised falling into the residue. L. P. A. No. 2 of 1963, D/- 9-3-1964 (AP), **Reversed** (Dec) 1355C

—S. 180 — Doctrine of election—Testator by his last will cancelling previous settlement which was acted upon in favour of his sons J and M and bequeathing some properties including items given to M by settlement—Residue bequeathed to M — A would be put to election, either to take under settlement or will—I L R (1965) 2 Ker 141, **Reversed** (Dec) 1311

TENANCY LAWS

—Andhra Inams (Abolition and Conversion into Ryotwari) Act (37 of 1956), S. 2 (E)—Tank can be an object of charity—Inam in favour of the “uracheruvu” (tank)—Tank must be considered a charitable institution within the meaning of Andhra Act, 37 of

Tenancy Laws—Andhra Inams (Abolition and Conversion into Ryotwari) Act (contd.)

1956—*See* Hindu Law — Charitable endowments (July) 563A

—**Berar Regulation of Agricultural Leases Act (24 of 1951), Ss. 16, 16A and 16B (as amended in 1953)**—Sections do not apply to appeals pending when Amendment Act of 1953 came into force (July) 560A

—**S. 16A** — Section as amended in 1953 does not apply to appeals pending when amending Act came into force—*See* Tenancy Laws — Berar Regulation of Agricultural Leases Act (1951), S. 16 (July) 560A

—**S. 16B** — Section as amended in 1953 does not apply to appeals pending when amending Act came into force—*See* Tenancy Laws — Berar Regulation of Agricultural Leases Act (1951), S. 16 (July) 560A

—**Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950), Ss. 3, 24-A, 4 (a)**— Issue of notification under S. 3 in respect of Gidhaur Estate—Effect on permanent Malikana payable to proprietors of estate—Held permanent malikana not being an interest in the estate, nor an incumbrance on it, did not cease on vesting of estate in Government and proprietor could not claim compensation for malikana under S. 24-A (Feb) 164

—**S. 3**—Vesting of estate in State — Effect — A I R 1963 Pat 412 (FB), **Overruled** — *See* Tenancy Laws — Bihar Land Reforms Act (30 of 1950), S. 14 (Nov) 971B

—**Ss. 4 and 10(1)**—A clause for renewal of the lease at a future date is an 'encumbrance' and is not binding on the State (Mar) 177A

—**S. 4A** — Issue of notification in respect of Gidhaur Estate — Effect on payment of Malikana payable to proprietors of estate — Permanent malikana not being an interest in estate, nor an incumbrance on it, cannot cease on vesting of estate in Government — Proprietor cannot claim compensation for malikana under S. 24A — *See* Tenancy Laws — Bihar Land Reforms Act (1950) (Bihar Act 30 of 1950), S. 3 (Feb) 164

—**S. 4 (d)**—Word "proceedings" in S. 4 (d) includes execution proceedings (Nov) 971C

—**S. 6**—Vesting of estate in State — Mortgagee decree-holder cannot proceed against bakasht land left with mortgagor—AIR 1963 Pat 412 (FB), **Overruled**—*See* Tenancy Laws — Bihar Land Reforms Act (30 of 1950), S. 14 (Nov) 971B

—**S. 10** — Rule 40 of Mineral Concession Rules (1949) has no application to statutory leases created under S. 10—*See* Mineral Concession Rules (1949), R. 40 Mar 177B

—**S. 10 (1)** — A clause for renewal of the

Tenancy Laws — Bihar Lands Reforms Act (contd.)

lease at a future date is an 'encumbrance' and is not binding on the State — *See* Tenancy Laws — Bihar Land Reforms Act (30 of 1950), S. 4 (Mar) 177A

—**Ss. 14, 3 and 6**—Intermediary—Vesting of estate in State—Mortgagee decree-holder has to proceed under S. 14 only—He cannot proceed against bakasht land left with mortgagor—AIR 1963 Pat 412 (FB), **Overruled** (Nov) 971B

—**S. 24-A**—Issue of notification under S. 3 in respect of Gidhaur Estate—Effect on permanent Malikana payable to proprietors of estate — Proprietor cannot claim compensation for malikana under S. 24A—*See* Tenancy Laws — Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950), S. 3 (Feb) 164

—**Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962), S. 16**— Object and scheme of section indicated (Mar) 244A

—**S. 16** — Right of reconveyance under S. 16—Accrual of—It accrues only when registration of sale deed is completed as required by Ss. 60 and 61, Registration Act and not before — Application under S. 16 presented to Collector prior to such date will be premature — 1968 Pat L J R 384, **Reversed** (Mar) 244C

—**S. 16**—Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules (1963), R. 19 and Form L. C. 13 — Compliance of — Whether directory or mandatory — Effect of non-compliance — Jurisdiction of Collector to entertain application for reconveyance accompanied with certified copy of sale-deed presented for registration not affected if he is satisfied as to compliance of conditions precedent to making such application—1968 Pat L J R 384, **Reversed** (Mar) 244E

— **Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules (1963), Form L. C. 12**—Object of, indicated. *See* Tenancy Laws — Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules (1963), R. 18 (Mar) 244B

—**Form L. C. 13** — Object of, indicated — *See* Tenancy Laws — Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules (1963), R. 18 (Mar) 244B

—**Form L. C. 13**—Compliance of, is directory — Effect of non-compliance—1968 Pat L J R 384, **Reversed**—*See* Tenancy Laws — Bihar Land Reforms (Fixation of Ceiling

Tenancy Laws—Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules (contd.)

Area and Acquisition of Surplus Land Act (12 of 1962), S. 16 (Mar) 244E

—*Rr. 18 and 19 and Forms L. C. 12 and 13*
—Object of, indicated (Mar) 244B

—*R. 19* — Object of, indicated—*See* Tenancy Laws—Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Rules (1963), R. 18 (Mar) 244B

—*R. 19* — Compliance of, is directory — Effect of non-compliance — 1968 Pat L J R 384, **Reversed** — *See* Tenancy Laws — Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962), S. 16 (Mar) 244E

— **Bihar Tenancy Act (8 of 1885), S. 1**—Main lease consisting of agricultural land as well as homestead — Sub-lease of homestead only — In view of uniform decisions of High Courts of Calcutta and Patna during a period of nearly 55 years that in such cases all sub-leases are agricultural leases—Question held should not be reopened even though the correctness of the view is open to question — Rule that where terms of a Statute or Ordinance are clear then even a long uniform course of judicial interpretation of it may be overruled, if it is contrary to clear meaning of enactment is inapplicable to decisions on the basis of which titles and transactions must have been founded—*See* Civil P. C. (1908), Pre. — Interpretation of Statutes (Oct) 864

— **Bombay Merged Territories and Areas (Jagir Abolition) Act (39 of 1954), S. 14 (1)**
— Compensation under — When can be claimed—Conditions precedent indicated (Apr) 270A

—*S. 14 (1)* — Right of Bhayyat to enjoy Charkhed lands free from payment of assessment—Amounts to interest in property (Apr) 270B

—*S. 14 (1)*—Right of Bhayyat of Jagir to receive annual cash allowance from jagir — Amounts to interest in property (Apr) 270C

— **Bombay Tenancy and Agricultural Lands Act (67 of 1948), Pre**—Inclusion of Bombay Act (67 of 1948) under Ninth Schedule — Protection under Art. 31B is available only to first part of amended S. 65 (1) and not to latter part—Such amendment cannot claim protection under General Scheme of preamble—*See* Constitution of India, Art. 31B, Ninth Schedule (Feb) 168A

Tenancy Laws — Bombay Tenancy and Agricultural Lands Act (contd.)

—*S. 15* — Surrender invalid for want of writing and registration under S. 15—Tenant is entitled to restoration of possession — *See* Tenancy Laws—Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 29 (Dec) 1190

—*Ss. 29, 84, 15 and 37*—Scope and object—Surrender invalid for want of writing and registration under S. 15—Tenant is entitled to restoration of possession — His remedy is to apply under S. 29 and not under S. 84 — S. 29 (1) and S. 84 do not provide alternative remedies (Dec) 1190

—*Ss. 32 (1), 32F, 88 (1), Proviso 1*—Effect of amendment by Act 13 of 1956 which came into force on 1-8-1956 — Suit lands belonging to minor plaintiff under management of Court of Wards — Act as it stood prior to amendment applied to suit lands prior to 1-8-1956 — Effect of amendment of S. 88 was that Ss. 1 to 87-A did not apply to suit lands so long as the lands continued under management of Court of Wards (June) 439A

—*S. 32F*—Effect of amendment by Act 13 of 1956 which came into force on 1-8-1956 —Effect of amendment of S. 88 was that Ss. 1 to 87A did not apply to suit lands so long as the lands continued under management of Court of Wards—*See* Tenancy Laws —Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 32 (1) (June) 439A

—*S. 37*—Restoration of possession—*See* Tenancy Laws—Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 29 (Dec) 1190

—*S. 44*—Inclusion of Bombay Act (67 of 1948) under Ninth Schedule — Protection under Article 31B is available only to first part of amended Sec. 65 (1) and not to latter part—Such amendment cannot claim protection under S. 44—*See* Constitution of India, Article 31B Ninth Schedule (Feb) 168A

—*S. 61*—Rules under S. 82, Rule 35—Taking over management of property under latter part of Section 65 (1)—Absence of definite time limit under Rule 35 for such taking over—Latter part of Section 65 (1) is ultra vires Article 31A (1) (b)—Advantage of words of S. 61 cannot be taken to create permanent deprivation of property—ILR (1966) Guj, 1113, **Reversed**—*See* Constitution of India, Art. 31A (1) (b) (Feb) 168C

Tenancy Laws — Bombay Tenancy and Agricultural Lands Act (contd.)

—S. 65 (1) (as amended by Section 35 of Bombay Act 13 of 1956)—Inclusion of Bombay Act (67 of 1948) under Ninth Schedule—Protection under Article 31B is available only to first part of amended S. 65 (1) and not to latter part—See Constitution of India, Article 31B, Ninth Schedule (Feb) 168A

—S. 65 (1) (as amended by Section 35 of Bombay Act 13 of 1956)—Taking over property by State under latter part of Section 65 (1)—Does not amount to acquisition or extinguishment or modifications of rights under Article 31A (1) (a)—Latter part of Section 65 (1) cannot claim protection under Article 31A (1) (a)—ILR 1966 Guj 1113, Reversed—See Constitution of India, Art. 31A (1) (b) (Feb) 168B

—S. 65 (1) (as amended by Bombay Act 13 of 1956)—Rules under S. 82, Rule 35—Taking over management of property under latter part of Section 65 (1)—Absence of definite time limit under Rule 35 for such taking over—Latter part of Section 65 (1) is ultra vires Article 31A (1) (b). ILR (1966) Guj. 1113, Reversed—See Constitution of India, Art. 31A (1) (b) (Feb) 168C

—Ss. 70 and 85—Question whether defendant is a tenant on date of suit—Duty of Mamlatdar to decide—Question whether defendant was a tenant in the past raised as a subsidiary plea in support of main plea of statutory ownership—Jurisdiction of Civil Court not barred—App. No. 1009 of 1960 D/- 5-2-1963 (Guj), Reversed (June) 439B

—S. 82—Rules under S. 82, Rule 35—Taking over management of property under latter part of Section 65 (1)—Absence of definite time limit under Rule 35 for such taking over—Latter part of Section 65 (1) is ultra vires Article 31A (1) (b). ILR (1966) Guj. 1113, Reversed—See Constitution of India, Art. 31A (1) (b) (Feb) 168C

—S. 84—Surrender by tenant invalid—Restoration of possession—His remedy is to apply under S. 29 and not under S. 84—See Tenancy Laws—Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 29

(Dec) 1190

—S. 85—Question whether defendant is a tenant on date of suit—Duty of Mamlatdar to decide—Question whether defendant was a tenant in the past raised as a subsidiary plea in support of main plea of statutory ownership—Jurisdiction of Civil Court not barred. App. No. 1009 of 1960, D/- 5-2-1963 (Guj.) Reversed—See Tenancy Laws—Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 70 (June) 439B

—S. 85A—Reference of issue for decision of Mamlatdar—Suit for possession of lands

Tenancy Laws—Bombay Tenancy and Agricultural Lands Act (contd.)

and mesne profits on 11-7-1958 on ground that defendants were in possession under void lease—Defendants setting up only plea of statutory ownership on basis of alleged valid lease D/- 28-7-1956—Plea found against them—No other plea of tenancy subsisting on date of suit raised by defendants—Held on facts and construction of pleadings that no issues survived for being referred to Mamlatdar under S. 85-A and that High Court was in error in referring any such issue to Mamlatdar. App. No. 1009 of 1960, D/- 5-2-1963 (Guj), Reversed (June) 439D

—S. 88 (1) Proviso I—Effect of amendment by Act 13 of 1956 which came into force on 1-8-1956—Suit lands belonging to minor plaintiff under management of Court of Wards—Act as it stood prior to amendment applies to suit lands prior to 1-8-1956—Effect of amendment of S. 88 was that Ss. 1 to 87A did not apply to suit land, so long as the lands continued under management of Court of Wards—See Tenancy Laws—Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 32 (1) (June) 439A

—Central Provinces Settlement Instructions (Reprint of 1963), Page 213—Passage relating to proposed method of settlement of titles—Applicability—Passage does not apply to case where land is recorded as Government land (Dec) 1256C

—M. B. Abolition of Jagirs Act (28 of 1951), Ss. 29 and 30—Appeal against order awarding compensation—Limitation—Where Sections 34 and 149 (2) of M. B. Revenue Administration and Ryotwari Land Revenue and Tenancy Act are applicable, period required in obtaining copy of judgment forming basis or giving reasons of decision should be excluded in computing period of 90 days—Order passed on 23-2-1958—Application for judgment made on 24-2-1958 without requisite fees—Return of application on 11-3-1958 requiring applicant to deposit necessary fees—Application with fees filed on 12-3-1958—Judgment copy given on 18-3-1958—Appeal filed on 2-6-1958, held, delayed by only 1 day, and could not be dismissed as time barred and the delay should have been condoned. Misc. Civil Petn. No. 64 of 1961, D/- 13-11-1962 (MP), Reversed

(Nov) 953

—S. 30—Appeal against order awarding compensation—Where Sections 34 and 149 (2) of M. B. Revenue Administration and Ryotwari Land Revenue and Tenancy Act are applicable, period required in obtaining copy of judgment forming basis or giving

Tenancy Laws—M. B. Abolition of Jagirs Act (*contd.*)

reasons of decision should be excluded in computing period of 90 days—Order passed on 23-2-1958—Application for judgment made on 24-2-1958 without requisite fees—Return of application on 11-3-1958 requiring applicant to deposit necessary fees—Application with fees filed on 12-3-1958—Judgment copy given on 18-3-1958—Appeal filed on 2-6-1958, held, delayed by only 1 day, and could not be dismissed as time barred. Misc. Court Petn. No. 64 of 1961 D/- 13-11-1962 (M.P.) **Reversed**—*See* Tenancy Laws—M. B. Abolition of Jagirs Act (28 of 1951), S. 29 (Nov) 953

—**Madras City Tenants' Protection Act, 1921** (3 of 1922), Ss. 2 (2), 2 (1), 3, 9, 12—Tenant of vacant land appurtenant to residential house—Tenant is a tenant of land: A. A. O. No. 1 of 1962, D/- 26-4-1965 (Mad), **Reversed**—Stipulation in registered lease that tenant was not to build permanent structure on land so that he would claim protection under Act—Tenant authorised to build temporary structure on stipulation that he would dismantle same before vacating—Tenant cannot claim benefit of S. 9 (June) 435

—S. 3—Tenant of vacant land appurtenant to residential house—Stipulation in registered lease that tenant was not to build permanent structure on land so that he would claim protection under Act—Stipulation overrides tenant's right under S. 3—*See* Houses and Rents—**Madras City Tenants' Protection Act, 1921** (3 of 1922), S. 2 (2) (June) 435

—S. 9—Tenant of vacant land appurtenant to residential house—Stipulation in registered lease that tenant was not to build permanent structure on land so that he would claim protection under Act—Tenant authorise to build temporary structure on stipulation that he would dismantle same before vacating—Tenant cannot claim benefit of S. 9—*See* Houses and Rents—**Madras City Tenants' Protection Act, 1921** (3 of 1922), S. 2 (2) (June) 435

—S. 12—Tenant of vacant land appurtenant to residential house—Stipulation in registered lease forbidding erection of building—Tenant authorised to build temporary structure—In common parlance stipulation is in respect of erection of building—Popular meaning furnishes key to interpretation of proviso to S. 12—*See* Houses and Rents—**Madras City Tenants' Protection Act, 1921** (3 of 1922), S. 2 (2) (June) 435

Madras Cultivating Tenants (Protection) Act (25 of 1955), S. 2 (a)—“Cultivating tenant—

Tenancy Laws—Madras Cultivating Tenants Protection Act (*contd.*)

Who is—Mere supervision of work, maintaining of accounts or distribution of wages is not conclusive (Sep) 764C

—**Madras Estates Land Act** (1 of 1908)

—Ss. 6 (1), 8 (5) (as amended by **Madras Estates Land Third Amendment Act 18 of 1936**)—Tenant acquiring tenancy right under S. 8 (5), under terms of contract—Expiry of period of twelve years mentioned in Section 8 (5)—Tenant cannot claim permanent occupancy right under Section 6 (1) (Sep) 764B

—S. 8 (5) (as amended by **Madras Estates Land Third Amendment Act 18 of 1936**)—Tenant acquiring tenancy right under S. 8 (5), under terms of contract—Expiry of period of twelve years mentioned in S. 8 (5)—Tenant cannot claim permanent occupancy right under S. 6 (1)—*See* Tenancy Laws—**Madras Estates Land Act** (1 of 1908) as amended by **Madras Estates Land Third Amendment Act** (18 of 1936), S. 6 (1) (Sep) 764B

—**Mysore (Personal and Miscellaneous) Inams Abolition Act** (1 of 1955), Ss. 1, 3, 9 and 17—Constitutional validity of Act—Act cannot be challenged on ground of violation of Art. 31 (2) as it falls within protection of Art. 31A (June) 453A
—S. 1—Act not ultra vires of State Legislature—*See* Constitution of India, Pre. (June) 453B

—S. 3—Constitutional validity of Act—Act cannot be challenged on ground of violation of Art. 31 (2) as it falls within protection of Art. 31A—*See* Tenancy Laws—**Mysore (Personal and Miscellaneous) Inams Abolition Act** (1 of 1955), S. 1 (June) 453A

—S. 9—Constitutional validity of Act—Act cannot be challenged on ground of violation of Art. 31 (2) as it falls within protection of Art. 31A—*See* Tenancy Laws—**Mysore (Personal and Miscellaneous) Inams Abolition Act** (1 of 1955), S. 1 (June) 453A

—S. 17—Constitutional validity of Act—Act cannot be challenged on ground of violation of Art. 31 (2) as it falls within protection of Art. 31A—*See* Tenancy Laws—**Mysore (Personal and Miscellaneous) Inams Abolition Act** (1 of 1955), S. 1 (June) 453A

—**Oudh Estates Act** (1 of 1869), S. 13 (1)—Son adopted by widow of taluqdar in pursuance of authority of husband would be a person who would have succeeded to estate or to interest therein within meaning of S. 13 (1) (Feb) 135A

—S. 22 (7)—Widow of taluqdar—Nature of estate—Adoption by widow—Doctrine of relation back does not apply—ILR (1964) 2 All 191, **Reversed** (Feb) 135B

Tenancy Laws (contd.)

—**Pepsu Tenancy and Agricultural Lands Act (8 of 1953), S. 43** — Proceedings under are judicial—Collector required to pass orders not on subjective satisfaction but on judicial determination of facts (Jan) 13

—**Punjab Security of Land Tenures Act (10 of 1953), S. 2 (1) and (6)**—A tenant of tenant is not a tenant of the landowner—*See* Tenancy Laws — Punjab Security of Land Tenures Act (10 of 1953), S. 18 (May) 392

—**Ss. 18 and 2 (1) and (6)** — Application under S. 18 — Sub-tenant is not entitled to make (May) 392

—**Saurashtra Land Reforms Act (25 of 1951), S. 2 (15)**—Grant by ruler of erstwhile state of Virpur confirmed by Government of India subject to condition that grantee would not evict cultivators from land—Grant accepted by grantee subject to conditions—By a notification under S. 2 (15) of the Act grantee declared to be a Girasdar subject to provisions of S. 18—Application by grantee under S. 19 as Girasdar for order of allotment of land for personal cultivation, held incompetent — Grantee was bound by conditions annexed to grant and Mamlatdar could not pass an order enabling him to evict the tenants — *See* Tenancy Laws — Saurashtra Land Reforms Act (25 of 1951), S. 18 (May) 370

—**S. 6** — Mortgagee, not otherwise tenant under S. 6 in possession of land—Land, held by Mamlatdar to be Khalsa and full assessment ordered under S. 20—Occupancy rights not granted — Rights of mortgagor not extinguished under Act—Court can scale down debts under Debtors Relief Act — *See* Debt Laws — Saurashtra Agricultural Debtors Relief Act (23 of 1954), S. 29 (Dec) 1196

—**Ss. 18, 19, 20 and 2 (15)** — Expression 'grant' in S. 18, interpretation of—Grant by ruler of erstwhile State of Virpur confirmed by Government of India subject to condition that grantee would not evict cultivators from land — Grant accepted by grantee subject to conditions — By a notification under S. 2 (15) of the Act grantee declared to be a Girasdar subject to provisions of S. 18—Application by grantee under S. 19 as Girasdar for order of allotment of land for personal cultivation, held, incompetent — Grantee was bound by conditions annexed to grant and Mamlatdar could not pass an order enabling him to evict the tenants (May) 370

—**S. 19**—Grant by ruler of erstwhile state of Virpur confirmed by Government of India subject to condition that grantee would not evict cultivators from land—Grant accepted

Tenancy Laws—Saurashtra Land Reforms Act. (contd.)

by grantee subject to conditions—By a notification under S. 2 (15) of the Act grantee declared to be a Girasdar subject to provisions of S. 18—Application by grantee under S. 19 as Girasdar for order of allotment of land for personal cultivation, held incompetent—*See* Tenancy Laws — Saurashtra Land Reforms Act (25 of 1951), S. 18 (May) 370

—**S. 20**—Grant by ruler of erstwhile State of Virpur confirmed by Government of India subject to condition that grantee would not evict cultivators from land—Grant accepted by grantee subject to conditions—By a notification under S. 2 (15) of the Act grantee declared to be a Girasdar subject to provisions of S. 18—Application by grantee under S. 19 as Girasdar for order of allotment of land for personal cultivation, held incompetent — Grantee was bound by conditions annexed to grant and Mamlatdar could not pass an order enabling him to evict the tenants—*See* Tenancy Laws — Saurashtra Land Reforms Act (25 of 1951), S. 18 (May) 370

—**S. 20**—Mortgagee, not otherwise tenant under S. 6 in possession of land—Land, held by Mamlatdar to be Khalsa and full assessment ordered under S. 20—Occupancy rights not granted—Rights of mortgagor not extinguished under Act—Court can scale down debts under Debtors Relief Act — *See* Debt Laws — Saurashtra Agricultural Debtors Relief Act (23 of 1954), S. 29 (Dec) 1196

—**Sonthal Parganas Settlement Regulation (3 of 1872), Ss. 11 and 25-A** — Effect of S. 11 — Question as to invalidity of exchange neither raised nor decided by settlement officer or Court—Bar of suit under S. 11 cannot apply (Mar) 204F

—**S. 25-A** — Effect on S. 11 — Question as to invalidity of exchange neither raised nor decided by Settlement Officer or Court — Neither S. 11 nor S. 25A has application — *See* Sonthal Parganas Settlement Regulation (3 of 1872), S. 11 (Mar) 204F

—**S. 27**—Scope—New plea—Plea as to invalidity of exchange of riyati holding under S. 27 at the stage of arguments in second appeal—High Court held, bound to take notice of it—AIR 1964 Pat 254, Reversed—*See* Civil P. C. (1908), S. 100 (Mar) 204A

—**S. 27 (1)** — Person setting up invalidity of transfer by way of exchange under S. 27 (1), Sonthal Parganas Settlement Regulation — Burden of proving that subject-matter of exchange was raiyati land situate in Sonthal Parganas lies on him — Discharge of onus—Onus shifts to other side to show that transfer comes within exception to rule laid down in S. 27 (1) and he must show that

Tenancy Laws — Sonthal Parganas Settlement Regulation (*contd.*)

record of rights contained an entry authorising transferor to transfer raiyati land—AIR 1964 Pat 254, **Reversed** — See Evidence Act (1872), Ss. 101 to 104 (Mar) 204B

—S. 27 (1) — Section is wide enough to include exchange of lands as it involves transfer of property (Mar) 204D

—S. 27 (1)—Effect of repeal — Exchange of raiyati land situate in Sonthal Parganas for land situate in it — Transaction is invalid — Subsequent repeal of section cannot affect invalidity of exchange—See General Clauses Act (1897), S. 6 (Mar) 204E

—**Sonthal Parganas Tenancy (Supplementary) Provisions Act (14 of 1949), S. 3** — Effect of repeal—Repeal of Ss. 27 and 28 of Sonthal Parganas Settlement Regulation by Bihar Act 14 of 1949 cannot affect the invalidity of exchange of raiyati lands effected before repeal — See General Clauses Act (1897), S. 6 (Mar) 204E

—**U. P. Tenancy Act (17 of 1939), Ss. 168, 271 (2)**—Civil P. C. (1908), S. 47 — Rent decree—Order under S. 168 directing delivery of possession to decree-holder—Order relates to execution, discharge or satisfaction of decree and is appealable under S. 271 (2) — ILR (1965) 2 All 383, **Reversed** (Dec) 1270

—S. 271 (2)—Rent decree — Order under S. 168 directing delivery of possession to decree-holder — Order relates to execution, discharge or satisfaction of decree and is appealable—ILR (1965) 2 All 383, **Reversed** — See Tenancy laws—U. P. Tenancy Act (17 of 1939), S. 168 (Dec) 1270

—**U. P. Zamindari Abolition and Land Reforms Act (1950) (1 of 1951), S. 21** (as amended by U. P. Land Reforms (Amendment) Act (20 of 1954)) — S. 21, as amended has retrospective operation—See Tenancy Laws—U. P. Zamindari Abolition and Land Reforms Act (1950) (1 of 1951), S. 157 (Dec) 1114A

—Ss. 157 and 21 (as amended by U. P. Land Reforms (Amendment) Act (20 of 1954), Ss. 5 and 27)—S. 157 as amended has retrospective operation (Dec) 1114A

—S. 240-H—Compensation officer himself Assistant Collector — Compensation officer not referring to himself case after framing issue — Order should be held to have been passed in the capacity of Compensation Officer and not in the capacity of Assistant Collector (Dec) 1114B

—S. 279 — Sugar company liable to pay income-tax dues, sugarcane cess and price of sugarcane — Amount recoverable as arrears of land revenue—Proceedings under

Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (*contd.*)

S. 286 (2)—Processes prescribed by Cls. (a) to (e) of S. 279 are not bound to be exhausted by Collector — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act 1950 (1 of 1951) S. 286 (Oct) 897A

—Ss. 286 and 279—Sugar Company liable to pay income-tax dues, sugarcane cess and price of sugarcane—Amount recoverable as arrears of land revenue—Proceedings under S. 286 (2) — Processes prescribed by Cls. (a) to (e) of S. 279 are not bound to be exhausted by Collector (Oct) 897A

—S. 286—Sale of immovable property of company to recover dues — Amount recovered more than what was due — Collector selling afterwards moveable property of company at low price — Company not raising contention in that regard before Land Reforms Commissioner and not arguing before High Court — Supreme Court, held could not investigate reasons for the sale in appeal before it — (Constitution of India, Art. 136)—Civil P. C. (1908), O. 21, R. 11 (Oct) 897B

Tort—Damages—Duty to minimise — Coal consigned to Company by Colliery on orders and sanction of Deputy Coal Commissioner (Distribution) under Colliery Control Order, 1945 which was then in force—Sanction and order at instance of Company — Wagons supplied by Railway on order by Coal Commissioner — Refusal of Company to take delivery — Railway selling coal and suing company for demurrage — Normally consignee is liable — On facts also held that Colliery acted as agent of company and was responsible for freight and demurrage charges—See Railways Act (1890), S. 56 (Mar) 193

—**Negligence—Duties of Doctor towards his patient**— See Fatal Accidents Act (1855), S. 1-A (Jan) 128

Trade Unions Act (16 of 1926), S. 6 (g)—Rules of Trade Union—Amendment—Procedure—Amendment when comes into effect—Notification by Registrar of his having registered amendment is necessary—Ref. No. 32 of 1963, D/- 28.9.1964 (In. Tri. Bihar), **Reversed**—See Industrial Disputes Act (1947), S. 10 (2) (Apr) 306A

—S. 28 (3) — Rules of Trade Union—Amendment—Procedure—Amendment when comes into effect—Notification by Registrar of his having registered amendment is necessary — Ref. No. 32 of 1963, D/- 28.9.1964 (Ind. Tri. Bihar), **Reversed**—See Industrial Disputes Act (1947), S. 10 (2) (Apr) 306A

Trade Unions Act (contd.).

—S. 28K (as amended by Act 45 of 1947) — Special leave with pay to workmen who are Union's representative to attend meeting of executive body of Union and federation of I. N. T. U. C.—Demand held not justified — Ref. No. 32 of 1963 D/- 28-9-1964 (Ind. Tri. Bihar), **Reversed** — See Industrial Disputes Act (14 of 1947), Sch. 3, Item 4 (Apr) 306C

—S. 29—Rules of Trade Union — Amendment—Procedure—Amendment when comes into effect—Notification by Registrar of his having registered amendment is necessary— Ref. No. 32 of 1963, D/- 28-9-1964 (Ind. Tri. Bihar), **Reversed** — See Industrial Disputes Act (1947), S. 10 (2) (Apr) 306A

—S. 30 (3) — Rules of Trade Union — Amendment—Procedure—Amendment when comes into effect—Notification by Registrar of his having registered amendment is necessary — Ref. No. 32 of 1963, D/- 28-9-1964 (Ind. Tri. Bihar), **Reversed**—See Industrial Disputes Act (1947), S. 10 (2) (Apr) 306A

Transfer of Property Act (4 of 1882), S. 3 — Word "attested" — To attest is to bear witness to a fact — Identifier or registering officer is not:attesting witness—See Registration Act (1908), S. 59 (Dec) 1147A

—S. 3—Charge on immovable property by registered instrument — Subsequent transferee will have notice of charge in view of S. 3—AIR 1939 Mad 202 and AIR 1940 Mad 140, **Overruled**; O. S. A. Nos. 65, 70 and 71 of 1956, D/- 28-7-1961 (Mad), **Reversed**—See Transfer of Property Act (1882), S. 100 (Dec) 1147B

—S. 6(e)—Bank holding power-of-attorney to collect bills due to executant towards Bank advances—Order for payment to Bank endorsed on bill sent for collection — It is an equitable assignment out of specific fund and not pay order — A I R 1963 M P 132, **Reversed** — See Transfer of Property Act (4 of 1882), S. 130 (Apr) 313

—S. 35—Doctrine of election—See Succession Act (1925), S. 130 (Dec) 1311

—S. 54—Documents of which registration is necessary under T. P. Act but not under Registration Act — Documents fall within scope of S. 49 of Registration Act — A I R 1928 All 726 (FB), AIR 1921 Mad 337 (FB), AIR 1917 Bom 203 held no longer good law in view of T. P. (Amendment) Supplementary Act (21 of 1929) — See Registration Act (1908), S. 49 (Dec) 1316A

—Ss. 59, 100, 3 — Second part of S. 100 does not attract S. 59—Security bond is not required to be attested—AIR 1939 Mad 202, AIR 1940 Mad 140, **Overruled**; O. S. A. Nos. 65, 70 & 71 of 1956, D/- 25-7-1961 (Mad),

T. P. Act (contd.).

Reversed—See T. P. Act (1882), S. 100

(Dec) 1147B

—S. 60—Joint usufructuary mortgage debt —Each mortgagor is liable for entire debt— There is no provision for splitting up the debt—See Debt Laws—Saurashtra Agricultural Debtors Relief Act (23 of 1954), S. 2 (5) (Jan) 69A

—S. 60—Scope of—Suit for redemption — What is (Sept) 751B

—S. 60 — Suit for accounts filed subsequently after reliefs envisaged under S. 60 have been obtained—Subsequent suit is not one for redemption of security — S. 2 (3) (c) of Usurious Loans Act 10 of 1918 is not applicable — Reg. Appeal No. 134 of 1953, D/- 19-9-1958 (Mys), **Reversed**—See Usurious Loans Act (1918), S. 2 (3) (c) (Sept) 751C

—S. 67 — Civil Procedure Code (1908), O. 34, Rr. 1 and 4, First Schedule App. 'D' Form 5-A—Puisne mortgagee party in prior mortgagee's suit—Claim of prior mortgagees satisfied by payments made by mortgagor before sale—Puisne mortgagee is entitled to institute separate suit in respect of his mortgage (July) 600A

—S. 76 — Suit for accounts under S. 76 filed subsequently after reliefs envisaged under S. 60 have been obtained—Subsequent suit is not one for redemption of security — S. 2 (3) (c) of Usurious Loans Act 10 of 1918 is not applicable — Reg. Appeal No. 134 of 1953, D/- 19-9-1958 (Mys), **Reversed** — See Usurious Loans Act (1918), S. 2 (3) (c) (Sept) 751C

—S. 76—Suit for accounts and decree for surplus under S. 76, T. P. Act — Is not covered by S. 2 (3) (b) of Usurious Loans Act (1918) — See Usurious Loans Act (1918), S. 2 (3) (b) (Sept) 751D

—S. 77—Finality of High Court judgment would also stand in way of raising plea relating to applicability of Ss. 76 and 77 — See Constitution of India, Art. 133 (Sept) 751A

—S. 83 — Suit for accounts filed subsequently after reliefs envisaged under S. 60 have been obtained under S. 83—Subsequent suit is not one for redemption of security — S. (2) (3) (c), Usurious Loans Act 10 of 1918 is not applicable—Regulation Appeal No. 34 of 1953, D/- 19-9-1958 (Mys), **Reversed** — See Usurious Loans Act (1918), S. 2 (3) (c) (Sept) 751D

—Ss. 100, 3, 59—Scope of S. 100—Second part of first paragraph of S. 100 does not attract S. 59—Security bond is not required to be attested — AIR 1939 Mad 202 and AIR 1940 Mad 140, **Overruled**; O. S. A. Nos. 65, 70 & 71 of 1956, D/- 25-7-1961 (Mad), **Reversed** (Dec) 1147B

T. P. Act (contd.)

—*S. 108 (j)*—Sub-letting without permission of landlord — Eviction of tenant under *S. 13 (1) (e)* of Rajasthan Premises (Control of Rent and Eviction) Act (17 of 1950) — Right of tenant under *S. 108 (j)* is immaterial — *See Houses and Rents—Rajasthan Premises (Control of Rent and Eviction) Act (17 of 1950), S. 13 (1) (e)* (Dec) 1291C

—*S. 108 (l)*—Tender of payment—Tenant depositing money under *S. 31, E. P. Relief of Indebtedness Act (7 of 1934)*—Not a valid tender—*Civ. Rev. No. 750 of 1962, D/- 18-3-1964 (Punj), Reversed. ILR (1964) 1 Punj 626, Overruled—See Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (2) (i), Proviso* (Dec) 1273

—*S. 111*—Surrender of lease — Agreement as to reduction or increase in rent — Inference of surrender of existing lease and grant of new lease cannot be drawn—Agreement must show intention to terminate old tenancy (Dec) 1291A

—*S. 113*—Acceptance of rent after default by landlord and continuance of old tenancy — Default under old tenancy also continues — *See Houses and Rents — West Bengal Premises Rent Control (Temporary Provisions) Act (17 of 1950), S. 12 (1) (i)* (Dec) 1187A

—*S. 114*—Covenant of forfeiture of tenancy for non-payment of rent — Nature of — Passing of decree for ejectment of tenant by trial Court — No bar to jurisdiction of appellate Court to grant relief against forfeiture (Dec) 1349A

—*S. 114*—Relief against forfeiture of tenancy for non-payment of rent — Discretion used in favour of tenants by lower appellate Courts — Appeal by special leave — Ordinarily Supreme Court will not interfere with the order (Dec) 1349B

—*S. 117*—Main lease consisting of agricultural land as well as homestead—Sublease of homestead only — In view of uniform decisions of High Courts of Calcutta and Patna during a period of nearly 55 years that in such cases all subleases are agricultural leases — Question held should not be reopened even though the correctness of the view is open to question — Rule that where terms of Statute or Ordinance are clear then even a long and uniform course of Judicial interpretation of it may be overruled, if it is contrary to clear meaning of enactment is inapplicable to decision on the basis of which titles and transactions must have been founded—*See Civil P. C. (1908), Preamble — Interpretation of Statutes* (Oct) 864

—*S. 118*—Section is void enough to include exchange of lands as it involves transfer of property — *See Sonthal Parganas*

T. P. Act (contd.)

Settlement Regulation (3 of 1872), *S. 27 (1)* (Mar) 204D

—*S. 130*—Decree-holder indebted to Bank — Power of attorney by him in Bank's favour to execute decree and credit realisations for discharging his debt — Power constitute equitable assignment and is not revocable — *See Contract Act (1872), S. 202* (Jan) 73B

—*Ss. 130, 6 (e)*—Bank holding power of attorney to collect bills due to executant towards Bank advances—Order for payment to bank endorsed on bill sent for collection — Held, it was an equitable assignment of specific fund and not a pay order and could not be attached under *S. 60, Civil P. C. AIR 1963 Madh Pra 132, Reversed* (Apr) 313

Travancore Cochin Public Safety Measures Act (5 of 1950)

See under Public Safety

Trustees and Mortgagees Powers Act (28 of 1866), *S. 43* — Powers of Court — Clause in trust-deed empowering settlor to alter quantum of interest given to each beneficiary 'by will alone'—Order by court permitting settlor to revoke that clause and to permit said alteration being done by deed inter vivos — Validity of order — Order cannot be justified on basis of *S. 43—See Trusts Act (1882), S. 34 --* (Oct) 823A

Trusts Act (2 of 1882), *S. 34* — Powers of Court — Clause in trust-deed empowering settlor to alter quantum of interest given to each beneficiary 'by will alone' — Order by court permitting settlor to revoke that clause and to permit said alteration being done by deed inter vivos — Validity of order—Court is not competent to pass such order and hence order is void (Oct) 823A

—*S. 88* — Person in fiduciary character entering into a transaction in regard to property whose interest he is to protect — Onus is on such person to prove that he did not gain pecuniary advantage by availing of his fiduciary character. *AIR 1960 Mad 410, Reversed* (Oct) 843A

Usurious Loans Act (10 of 1918)

See under Debt Laws.

U. P. Industrial Disputes Act (28 of 1947), *S. 6-S (4)*—Dismissal of workmen for participating in illegal strike — Order based on warning given in respect of previous strike in disregard of settlement — Dismissal held mala fide and vindictive—*See Industrial Disputes Act (1947), S. 23* (Mar) 235

U. P. Police Regulations, *Reg. 104* — Police not to investigate offences under *Ss. 325 and 326, Penal Code* without the order of prescribed authority — Offence falling under *S. 307, Penal Code* wrongly registered by

U. P. Police Regulations (contd.)

police under S. 325, Penal Code — Police held not justified in starting investigation after delay of 4 days by invoking provisions of Reg. 104 even though the victim had succumbed to his injuries (Nov) 951A

U. P. Sales Tax Act (15 of 1948)

See under Sales Tax

U. P. Tenancy Act (17 of 1939)

See under Tenancy Laws

U. P. Zamindari Abolition and Land Reforms Act (1 of 1951)

See under Tenancy Laws

Wealth Tax Act (27 of 1957), Ss. 2 (e) (v) and 2 (r) and 4 (5)—Assessee taking lease of salt pans from Government in 1943 for 25 years — Lease determinable on either side by giving notice at end of any manufacturing season — Sub-letting by assessee — Assessment of net wealth for assessment year 1959-60 — Interest of assessee in salt pans for unexpired portion of lease not an 'asset' within S. 2 (e) (v)—Not liable to be included in net wealth under S. 4 (5) (Sep) 740A

—S. 2 (e) (v)—As amended in 1934—Clause as amended was not intended to be Parliamentary exposition of meaning of original clause — Clause has no application to case in which valuation date in the relevant assessment year is prior to coming into force of Amendment Act (Sep) 740B

—S. 3 — Levy of tax during successive years on same subject-matter is valid—Tax not chargeable on accretion to wealth since last valuation (Jan) 59A

—S. 4 — Accrued liability though not actually paid is permissible deduction under Income Tax Act and Wealth Tax Act — See Payment of Bonus Act (1965), S. 4 (Aug) 612D

—S. 4 (5)—Interest of assessee in salt pans for unexpired portion of lease not an 'asset' within S. 2 (e) (v)—Not liable to be included in net wealth under S. 4 (5) — See Wealth Tax Act (1957), S. 2 (e) (v) (Sep) 740A

—S. 5 — Accrued liability though not actually paid is permissible deduction under Income Tax Act and Wealth Tax Act — See Payment of Bonus Act (1965), S. 4 (Aug) 612D

—S. 7 (2) — Artificially inflating the value by the Company of the fixed assets with a view to claim interest—Resorting to such practice not profitable as Company will be liable to increased assessment under S. 7 (2) — See Payment of Bonus Act (1965), S. 6 (d) (Aug) 612E

West Bengal Premises Rent Control (Temporary Provisions) Act (17 of 1950)

See under Houses and Rents.

West Bengal Premises Tenancy Act (12 of 1956)

See under Houses and Rents.

Words and Phrases — "Act" includes illegal omissions — See Municipalities — Ajmer Marwar Municipalities Regulation (1925), S. 233 (Mar) 227A

—"Any person", meaning of — Expression in second proviso to S. 34 (3) of Income-tax Act (1922) must be confined to a person intimately connected with assessments of the year in question — See Income-tax Act (1922), S. 34 (3) (May) 340

—"Arrears of interest"—Expression "Arrears of interest" in S. 17, Mysore Money Lenders Act (13 of 1939) means interest calculated up to date of decree — AIR 1959 Mys 102, Reversed—See Debt Laws—Mysore Money Lenders Act (13 of 1939), S. 17 (Aug) 671B

—Word "assessed" — Meaning of — See Income-tax Act (1922), S. 15A (3) (July) 543A

—"As soon as may be" — Meaning of—See Public Safety — Preventive Detention Act (1950), S. 3 (4) (Apr) 323C

—"At any time" — Words not limited to year of assessment—See Assam Agricultural Income-tax Act (1939), S. 19 (Oct) 331B

—"At once" — Meaning of — See Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967), R. 19 (1) (Aug) 655B

—"Attested" meaning of — To attest is to bear witness to a fact — See Transfer of Property Act (1882), S. 3 (Dec) 1147A

—"Avoid" and "income as returned"—Words 'avoid' and 'income as returned' — Meaning — Avoided does not mean evaded and cannot be linked with concealment of income— See Income-tax Act (1922), S. 23 (1) (c) (Oct) 335

—"Cattle fair" — Meaning — Expression not defined in Punjab Cattle Fairs (Regulation) Act (6 of 1963) — Expression bears its ordinary meaning — AIR 1963 Punj 391, Overruled—See Constitution of India, Art. 13 (Nov) 1100A

—Decision "contrary to law" and decision "not according to law"—Distinction—The expression "not according to law" is wider than the expression "contrary to law" — Instances of decision "not according to law" given — See Provincial Insolvency Act (1920), S. 75 (1) First Proviso (Dec) 1344A

—"Charitable Institution" — Meaning — Meaning of the word institution that will cover every use of it depends on the context in which it is found — A tax

Words and Phrases (contd.).

charitable institution when there is dedication in favour of that tank (July) 563B
 —Compensation — Meaning of—*See* Constitution of India, Art. 31 (2) (Aug) 634E
 —“Deity” — Concept of — *See* Income Tax Act (1922), S. 3 (Nov) 1089
 —“Direction”—Word “direction” in second proviso to S. 34 (3) of Income-tax Act (1922) is a direction which the appellate or revisional authority is empowered to give under the sections mentioned in the proviso — *See* Income Tax Act (1922), S. 34 (3) Second Proviso (May) 340
 —Words “expenditure in connection with election incurred or authorised” — Meaning of — *See* Representation of the People Act (1951), S. 123 (6) (Apr) 288
 —“Extradition” — *See* Criminal Procedure Code (5 of 1898), S. 82 (Dec) 1171
 —“Finding” — Word “finding” in second proviso to S. 34 (3) of Income-tax Act (1922) means a finding necessary for giving relief in respect of assessment for the year in question — *See* Income-tax Act (1922), S. 34 (3), Second Proviso (May) 340
 —“For all purposes”—Words ‘for all purposes’ in S. 43—Meaning of—Appointment made for particular assessment year—It is good for all purposes only for that year — *See* Income-tax Act (1922), S. 43 (Apr) 319
 —‘Forthwith’, meaning of — *See* Public Safety — Preventive Detention Act (1950), S. 3 (3) (Apr) 323
 —“Individual”—Hindu deity falls within meaning of word “individual” within S. 3 of Income-tax Act (1922)—*See* Income-tax Act (1922), S. 3 (Nov) 1089

Words and Phrases (contd.)

—“Manufacture” — *See* Sales-tax — U.P. Sales-tax Act (1948), S. 3A (June) 499
 —“On any ground whatsoever”, meaning of — *See* Bangalore Acquisition of Lands (Validation) Act (Mys. Act 19 of 1963), S. 1 (June) 477
 —“Other person liable to pay” — *See* Income-tax Act (1922), S. 29 (Aug) 667A
 —“Principal of original loan” — Expression in S. 17, Mysore Money Lender's Act (13 of 1939) — *See* Debt Laws — Mysore Money Lenders Act (13 of 1939), S. 17 (Aug) 671A
 —“Produced” meaning of — Does not include trees growing spontaneously — *See* Sales-tax — Kerala General Sales-tax Act (15 of 1963), S. 2 (viii) Cl. (c) (Nov) 930
 —Rates — Word “rates” merely means scale or amount of any other charges — *See* Railways Act (1890), S. 41 (1) (c) (Aug) 630B
 —“Report and statement” — *See* Bombay Public Trusts Act (29 of 1950), (as applied to the State of Gujarat), S. 37 (1) (c) (May) 373
 —“Revocation” — Expresso in, in S. 13 (2), Preventive Detention Act (1950), not capable of restricted interpretation—*See* Preventive Detention Act (1950), S. 13 (2) (Jan) 43B
 —“Tenant of land”, “tenant of building”—Meaning—*See* Houses and Rents—Madras City Tenants’ Protection Act, 1921 (3 of 1922), S. 2 (2) (June) 435
 —“Which ought to have been passed” means which ought in law to have been passed — S. A. No. 254 of 1962, D/- 18-11-1963 Punj., **Reversed**—*See* Civil P. C. (1908), O. 41, R. 33 (Dec) 1144B

CORRECTION

A. I. R. 1969 S. C. 1144 (V 56 C 209)

Add at the end of the short note and the long note of Pt. B as under:

“S. A. No. 254 of 1962 decided on 18-11-1963 (Punjab H. C.), Reversed.”

SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM IN A. I. R. 1969 SUPREME COURT

Diss. = Dissented from in; Not F. = Not Followed in; Over. = Overruled in;
Revers. = Reversed in

Arbitration Act (10 of 1940)

- S. 8—AIR 1965 All 269.— Revers. A I R 1969 S C 474 (Jun).
- S. 20—AIR 1965 All 269— Revers. AIR 1969 SC 474 (Jun).

Assam Agricultural Income-tax Act (9 of 1939)

- S. 19.— Civil Rules Nos. 212 & 213 of 1962 D/- 23.4.1963 (Assam) — Revers. AIR 1969 S C 831A (Oct).

Bombay Electricity (Surcharge) Act (19 of 1946)

- S. 3 (as extended to Ajmer Merwar under Ajmer Merwar Extension of Laws Act 1947), F. A. No. 67 of 1956, D/- 22.9.1964 (Raj)—Revers. AIR 1969 S C 227B, C (Mar).
- S. 3 (2) — F. A. No. 67 of 1956, D/- 22.9.1964 (Raj)—Revers. A I R 1969 S C 227A (Mar).
- S. 4—F. A. No. 67 of 1956, D/- 22.9.1964 (Raj) — Revers. AIR 1969 S C 227 B, C (Mar)
- S. 6 — F. A. No. 67 of 1956, D/- 22.9.1964 (Raj)—Revers. A I R 1969 SC 227B (Mar).

Bombay Town Planning Act (27 of 1955)

- S. 53 — Spl. Civil Appln. No. 837 of 1960, D/- 24.1.1968 (Guj) — Revers. AIR 1969 S C 634B (Aug).
- S. 67 — Spl. Civil Appln. No. 837 of 1960, D/- 24.1.1968 (Guj) — Revers. AIR 1969 S C 634B (Aug).

Civil Procedure Code (1908)

- Pre. — Appeal No. 82 of 1959, D/- 17.1.62 (Cal) — Revers. A I R 1969 S C 600B (July).
- Pre. — Precedents — C. R. Appln. No. 477 of 1960, D/- 12.2.1963 (Guj) — Revers. AIR 1969 S C 69B (Jan).
- Pre.—AIR 1961 Pat 321 (FB) — Revers. AIR 1969 S C 864 (Oct).
- Pre — C. W. P. No. 401 of 1963, D/- 3.4.1965 (Raj) — Revers. AIR 1969 S C 880A (Oct).
- S. 9 — App. No. 1009 of 1960, D/- 5.2.1963 (Guj) — Revers. AIR 1969 S C 439B (Jun).

Civil P. C. (contd.)

- S. 9—(65) First Appeals Nos. 68, 69, 71 and 70 of 1961, D/- 5.1.1965 (MP) — Revers. AIR 1969 S C 78 (Jan).
- S. 11—AIR 1914 All 173 — Disapproved. AIR 1969 S C 316A (Apr).
- S. 11—A I R 1947 Pat 298—Over. A I R 1969 S C 971A (Nov).
- S. 11—AIR 1963 Punj 391—Over. A I R 1969 S C 1100A (Nov)
- S. 20 — A I R 1928 Mad 1088 — Held Overruled in A I R 1955 Mad 96 (FB). AIR 1969 S C 552B (July).
- S. 20 — A I R 1944 Mad 437 — Held Overruled in A I R 1955 Mad 96 (FB). AIR 1969 S C 552B (July).
- S. 34—Appeal No. 82 of 1959, D/- 17.1.1962 (Cal)—Revers. AIR 1969 SC 600B (July).
- S. 47 — ILR (1965) 2 All 383 — Revers. AIR 1969 S C 1270 (Dec).
- S. 47.—(40) A I R 1940 Pat 176 — Over. AIR 1969 S C 575A (July).
- S. 47—AIR 1947 Pat 298—Over. A I R 1969 S C 971A (Nov).
- S. 60—AIR 1963 Madh Pra 132—Revers. AIR 1969 S C 313 (Apr).
- S. 60 (i) (k)—AIR 1962 Cal 169—Revers. AIR 1969 S C 762 (Sep).
- S. 80 — (62) F. A. No. 205 of 1950, D/- 24.4.1962 (All)—Revers. AIR 1969 S C 674B (Aug).
- S. 96 — A I R 1940 Pat 176 — Over. AIR 1969 S C 575A (July).
- Ss. 100-101—AIR 1964 All 441—Revers. AIR 1969 S C 73 (Jan).
- S. 100—AIR 1964 Pat 254—Revers. AIR 1969 S C 204A (Mar).
- S. 107 — S. As. Nos. 4940 and 3660 of 1961, D/- 27.4.1964 (All) — Revers. A I R 1969 S C 1316B (Dec.).
- S. 151 — A. F. O. D. No. 300 of 1950, D/- 3.12.1962 (Pat)—Revers. AIR 1969 SC 297 (Apr).
- S. 151—Civil Revn. No. 422 of 1963, D/- 22.5.1963 (Punj) — Revers. AIR 1969 SC 933 (Nov).
- O. 2 (2)—(40)AIR 1940 Pat 176 — Over. AIR 1969 SC 575A (July).
- O. 6, R. 17—AIR 1965 All 586—Revers. AIR 1969 SC 1267A (Dec).

Civil P. C. (contd.)

- O. 6, R. 153—AIR 1965 All 586—**Revers.**
AIR 1969 SC 1267A (Dec).
- O. 9, R. 8—AIR 1947 Pat 298—**Over.**
AIR 1969 SC 971A (Nov).
- O. 9, R. 9—AIR 1947 Pat 298—**Over.**
AIR 1969 SC 971A (Nov).
- O. 20, R. 4—AIR 1964 Madh Pra 196—
Revers. AIR 1969 SC 255B (Mar).
- O. 20, R. 11 (1)—('62) AFOD No. 300 of
1959, D/- 3-12-1962 (Pat)—**Revers.** AIR
1969 SC 297 (Apr).
- O. 21, R. 52—AIR 1962 Cal 169—**Revers.**
AIR 1969 SC 762 (Sep).
- O. 21, R. 58—AIR 1962 Cal 169—**Revers.**
AIR 1969 SC 762 (Sep).
- O. 23, Rr. 1 & 3—('62) Misc. Appeal
No. 22 of 1962, D/- 17-9-1962 (MP)—
Revers. AIR 1969 SC 1118 (Dec).
- O. 30, R. 1—AIR 1965 All 586—**Revers.**
AIR 1969 SC 1267A (Dec).
- O. 34, R. 2—('62) Appeal No. 82 of 1959,
D/- 17-1-1962 (Cal)—**Revers.** AIR 1969
SC 600B (July).
- O. 34, R. 4—('62) Appeal No. 82 of 1959,
D/- 17-1-1962 (Cal)—**Revers.** AIR 1969
SC 600B (July).
- O. 34, R. 11—('62) Appeal No. 82 of
1959, D/- 17-1-1962 (Cal)—**Revers.** AIR
1969 SC 600B (July).
- O. 34, R. 11—AIR 1959 Mys 102—**Revers.**
AIR 1969 SC 671D (Aug).
- O. 39, R. 2—Civil Revn. No. 422 of 1968,
D/- 22-5-1968 (Punj)—**Revers.** AIR 1969
SC 938 (Nov).
- O. 41, R. 1 — A I R 1940 Pat 176 —
Over. AIR 1969 SC 575A (July).
- O. 41, R. 1—('68) 70 Punj L R (D) 332—
Revers. AIR 1969 SC 575B (July).
- O. 41, R. 27—AIR 1964 Madh Pra 196—
Revers. AIR 1969 SC 255B (Mar).
- O. 41, R. 33—('64) S. As. Nos. 4940 and
3660 of 1961, D/- 27-4-1964 (All) —
Revers. AIR 1969 SC 1316B (Dec.)
- O. 41, R. 33—('63) S. A. No. 254 of 1962,
D/- 18-11-1963 (Punj)—**Revers.** A I R
1969 S C 1144B (Dec).
- O. 42, R. 1—('64) S. As. Nos. 4940 and
3660 of 1961, D/- 27-4-1964 (All) —
Revers. AIR 1969 S C 1316B (Dec).
- O. 42, R. 1—AIR 1964 Pat 254—**Revers.**
AIR 1969 S C 204A (Mar).
- O. 43, R. 1—Civil Revn. No. 422 of 1968
D/- 22-5-1968 (Punj) — **Revers.** A I R
1969 S C 938 (Nov).

CIVIL SERVICES

- Indian Police Service (Appointment by
Promotion) Regulation (1955)
- Reg. 5 — I L R 1967 Cut 735—**Revers.**
AIR 1969 S C 1249A (Dec).

Civil Services (contd.)

- Indian Police Service (Regulation of
Seniority) Rules (1954)
- R. 3 (3) (b)—ILR 1967 Cut 735—**Revers.**
AIR 1969 S C 1249A, B, C (Dec).

Colliery Control Order (1945)

- Cl. 4 — ILR (1965) 15 Raj 603 — **Revers.**
AIR 1969 S C 343A (May).

Companies Act (1 of 1956)

- S. 237 (b)—View taken by Sarkar, C. J.,
and Mudholkar, J., in A I R 1967 S C
295 — **Not Approved.** A I R 1969 S C
707B (Aug).
- S. 237 (b) — 1967 B L J R 537—**Revers.**
AIR 1969 S C 707B (Aug).

Constitution of India

- Art. 13—AIR 1938 Punj 391—**Over.** AIR
1969 S C 1100A (Nov).
- Art. 14 — A I R 1962 Mys 218—**Revers.**
AIR 1969 S C 277B (Jun).
- Art. 14—AIR 1968 Orissa 189 — **Revers.**
AIR 1969 S C 1081A (Nov).
- Art. 14 — I L R 1967 Cut 735 — **Revers.**
AIR 1969 S C 1249C (Dec).
- Art. 19—AIR 1968 Orissa 189 — **Revers.**
AIR 1969 S C 1081A (Nov).
- Art. 31 (2) and (5) (b) (ii) — A I R 1967
S C 637 — **Over.** A I R 1969 S C 634B
(Aug).
- Art. 31 (2) and (5) (b) (ii) — ('68) Spl.
Civil Appln. No. 837 of 1960, D/- 24-1-
1968 (Guj) — **Revers.** A I R 1969 S C
634B (Aug).
- Art. 31 (2) — ('67) L. P. A. No. 37 of
1967, D/- 3-5-1967 (P. & H.) — **Revers.**
AIR 1969 S C 1126B (Dec).
- Art. 31A (1) (a)— ('66) ILR (1966) Guj
1113—**Revers.** AIR 1969 S C 168B, C
(Feb).
- Art. 31A (1) (b) and 31 (5) (a) — I L R
1966 Guj 1113—**Revers.** AIR 1969 S C
168C (Feb).
- Art. 32 — A I R 1968 Punj 391 — **Over.**
AIR 1969 S C 1100A (Nov).
- Art. 51 — ('63) C. R. 104D of 1953, D/-
12-9-1963 (Punj) — **Revers.** AIR 1969
S C 1330B (Dec).
- Art. 173 (a)—AIR 1968 Mys 18—**Revers.**
AIR 1969 S C 1034B, C, D (Nov).
- Art. 189 (4)—ILR (1968) 2 Punj 42 (FB)
—**Revers.** AIR 1969 S C 903F (Oct).
- Art. 208—I L R (1968) 2 Punj 42 (FB)—
Revers. AIR 1969 S C 903F, G (Oct)
- Art. 209—I L R (1968) 2 Punj and Har
42 (FB)—**Revers.** AIR 1969 S C 903E, F
(Oct).

Constitution of India (contd.)

- Art. 226 — S. A. No. 322 of 1964, D/- 27-3-1967 (All)—**Revers.** AIR 1969 S C 556 (July).
- Art. 226—ILR 1967 Andh Pra 361 — **Revers.** AIR 1969 S C 1306A (Dec).
- Art. 226—AIR 1968 Mys 258 — **Revers.** AIR 1969 SC 408C (May).
- Art. 226—AIR 1963 Punj 336 — **Revers.** AIR 1969 SC 966A (Nov).
- Art. 226—A I R 1968 Punj 391 — **Over.** AIR 1969 SC 1100A (Nov).
- Art. 226—ILR (1968) 2 Punj and Har 42 (FB)—**Revers.** AIR 1969 SC 903G (Oct).
- Art. 226—ILR (1965) 15 Raj 603 — **Revers.** AIR 1969 S C 343B (May).
- Art. 245—A I R 1962 Mys 218—**Revers.** AIR 1969 SC 477B (June).
- Art. 246—A I R 1962 Mys 218 — **Revers.** AIR 1969 SC 477B (June).
- Art. 246—A I R 1968 Punj 391 — **Over.** AIR 1969 SC 1100A (Nov).
- Art. 254—AIR 1962 Mys 218 — **Revers.** AIR 1969 SC 477B (June).
- Art 301 — Writ. Petn. No. 836 of 1966, D/- 7-4-1967 (Mad)—**Revers.** AIR 1969 SC 147 (Feb).
- Art. 302—Writ. Petn. No. 836 of 1966, D/- 7-4-1967 (Mad)—**Revers.** AIR 1969 SC 147 (Feb).
- Art. 303 (1) — Writ. Petn. No. 836 of 1966, D/- 7-4-1967 (Mad)—**Revers.** AIR 1969 SC 147 (Feb).
- Art. 304 (b), Proviso—AIR 1954 Trav-Co. 257—**Over.** AIR 1969 S C 504B (June).
- Art. 304 (b), Proviso—AIR 1955 Tra-Co. 82 (FB) — **Over.** AIR 1969 S C 504B (June).
- Art. 304 (b), Proviso—AIR 1964 Ker 92 — **Revers.** AIR 1969 SC 504B (June).
- Art. 309, Proviso—AIR 1963 Mys 265—**Over.** AIR 1969 SC 118A (Jan).
- Art. 309, Proviso—AIR 1965 Mys 25 — **Over.** AIR 1969 SC 118A (Jan).
- Art. 311—AIR 1963 Punj 336 — **Revers.** AIR 1969 SC 966A, C (Nov).
- Art. 311 (2)—S. A. No. 1271 of 1962, D/- 2-3-1965 (All) — **Revers.** AIR 1969 S C 1020A (Nov).
- Sch. 7, List. 2, Entry 28—AIR 1968 Punj 391—**Over.** AIR 1969 SC 1100A (Nov).
- Sch. 7, List 3, Item. 42—AIR 1962 Mys 218—**Revers.** AIR 1969 SC 477B (June).

Contempt of Courts Act (32 of 1952)

- S. 1—Cri. Misc. Contempt Case No. 7 of 1965, D/- 3-5-1965 (All) — **Revers.** AIR 1969 SC 30 (Jan).
- S. 1 — Cri. Misc. Case No. 28 of 1964, D/- 16-6-1964 (Cal)—**Revers.** AIR 1969 SC 189B (Mar).

1969 (S.C.) Indexes 7.

Contempt of Courts Act (contd.)

- S. 1—AIR 1949 Pat 222 (FB)—**Over.** AIR 1969 SC 30 (Jan).
- S. 3—Board observation by Narayan J.—AIR 1949 Pat 222 (FB)—**Over.** AIR 1969 SC 30B (Jan).

Contract Act (9 of 1872)

- S. 2 (b)—Reg. App. No. 231 of 1960, D/- 19-6-1963 (Mys) — **Revers.** A I R 1969 SC 1157 (Dec).
- S. 23—AIR 1962 Ker 92—**Revers.** AIR 1969 SC 504A (June).
- S. 50—AIR 1962 Cal 169—**Revers.** AIR 1969 SC 762 (Sep).
- S. 56 — Appeal No. 367 of 1958, D/- 16-3-1962 (Mad)—**Revers.** AIR 1969 SC 110B (Jan).
- S. 73—AIR 1962 Ker 92—**Revers.** AIR 1969 SC 504A (June).
- S. 128 — A. F. O. D. No. 300 of 1959, D/- 3-12-1962 (Pat)—**Revers.** AIR 1969 SC 297 (Apr).

CO-OPERATIVE SOCIETIES

—Maharashtra Co-operative Societies Act (24 of 1961)

- S.2(2)—AIR 1964 Bom 147—**Held Overruled** in AIR 1967 SC 1494 as interpreted. AIR 1969 SC 724A (Aug).
- S. 2 (2)—AIR 1918 Cal 932—**Over.** AIR 1969 SC 724A (Aug).
- S. 2 (2)—AIR 1930 Mad 869—**Over.** AIR 1969 SC 724A (Aug).
- S. 2 (2)—AIR 1934 Mad 40 (FB)—**Over.** AIR 1969 SC 724A (Aug).
- S. 2 (2)—AIR 1935 Mad 673—**Over.** AIR 1969 SC 724A (Aug).
- S. 91 (1)—AIR 1961 MP 40—**Over.** AIR 1969 SC 1323C (Dec).
- S. 91 (1)—AIR 1946 Nag 16—**Over.** AIR 1969 SC 1323C (Dec).
- S. 95—AIR 1964 Bom 147—**Held not overruled** in AIR 1967 SC 1494 as interpreted. AIR 1969 SC 724A (Aug).
- S. 95—AIR 1918 Cal 932—**Over.** AIR 1969 SC 724A (Aug).
- S. 95—AIR 1930 Mad 869—**Over.** AIR 1969 SC 724A (Aug).
- S. 95—AIR 1934 Mad 40 (FB)—**Over.** AIR 1969 SC 724A (Aug).
- S. 95—AIR 1935 Mad 673 — **Over.** AIR 1969 S C 724A (Aug).
- S. 96—A I R 1964 Bom 147 — **Held not Overruled** in AIR 1967 S C 1494 as interpreted. AIR 1969 S C 724A (Aug).
- S. 96—A I R 1918 Cal 932—**Over.** AIR 1969 S C 724A (Aug).
- S. 96—A I R 1930 Mad 869 — **Over.** AIR 1969 S C 724A (Aug).
- S. 96—A I R 1934 Mad 40 (FB) — **Over.** AIR 1969 S C 724A (Aug).

Co-operative Societies — Maharashtra Co-operative Societies Act (*contd.*)

—S. 96 — AIR 1935 Mad 673—**Over.** AIR 1969 S C 724A (Aug).

Criminal Procedure Code (5 of 1898)

- S. 10(2) — AIR 1966 Punj 141— **Revers.** AIR 1969 S C 483 (Jun).
- S. 82—AIR 1968 Cal 220—**Revers.** AIR 1969 S C 1171 (Dec).
- S. 195 — AIR 1918 Cal 932—**Over.** AIR 1969 S C 724A (Aug).
- S. 195—AIR 1930 Mad 869—**Over.** AIR 1969 S C 724A (Aug).
- S. 195—AIR 1934 Mad 40—**Over.** AIR 1969 S C 724A (Aug).
- S. 195—AIR 1935 Mad 673—**Over.** AIR 1964 S C 724A (Aug).
- S. 195 (1) (b) and (1) (a)—AIR 1928 All 765—**Over.** AIR 1969 S C 355A (May).
- S. 205 — AIR 1962 Cal 203 (FB)—**Over.** AIR 1969 S C 381A (May).
- S. 207A — Cr. R. No. 34-M of 1965, D/- 4-2-1966 (Punj)—**Revers.** AIR 1969 S C 355B (May).
- S. 251A—AIR 1963 Madh Pra 337—**Over.** AIR 1969 S C 4B (Jan).
- S. 252—AIR 1963 Madh Pra 337—**Over.** AIR 1969 S C 4B (Jan).
- S. 342—AIR 1962 Cal 203 (FB) — **Over.** AIR 1969 S C 381A (May).
- S. 367 — Cri. Appeal No. 545 of 1962, D/- 9-2-1965 (Pat)— **Revers.** AIR 1969 S C 53 (Jan).
- S. 517 — Cri. Misc. Case No. 28 of 1964, D/- 16-6-1964 (Cal)—**Revers.** AIR 1969 S C 189A (Mar).
- S. 517—Cri. Misc. Case No. 135 of 1962 D/- 5-4-1963 (M P)—**Revers.** AIR 1969 S C 401A, B (Jan).
- S. 520—Cri. Misc. Case No. 135 of 1962 D/- 5-4-1963 (M P)—**Revers.** AIR 1969 S C 401A, B (Jan).
- S. 540-A—AIR 1962 Cal 203 (FB)—**Over.** AIR 1969 S C 381A (May).

Customs (Punjab)

—S. A. No. 259 of 1962, D/- 18-11-1963 (Punj) — **Revers.** A I R 1969 S C 1144A (Dec).

DEBT LAWS

—Displaced Persons (Debts Adjustments) Act (7 of 1951)

—S. 13 — C. R. D. No. 104D of 1958, D/- 12-9-1963 (Punj)—**Revers.** AIR 1969 SC 1330B (Dec).

Debt Laws (*contd.*)

—**Mysore Money Lenders Act (13 of 1939)**
—S. 17—AIR 1959 Mys 102—**Revers.** AIR 1969 SC 671B, D (Aug).

—**Mysore Usurious Loans Act (9 of 1923)**
—S. 1—AIR 1959 Mys 102—**Revers.**—AIR 1969 SC 671D (Aug).

—Punjab Relief of Indebtedness Act (7 of 1934)

—S. 31—I L R (1964) 1 Punj 626 — **Over.** AIR 1969 SC 1273 (Dec).

—S. 31 — C. R. No. 750 of 1962, D/- 18-3-1964 (Punj) —**Revers.** AIR 1969 SC 1273 (Dec).

—Saurashtra Agricultural Debtors Relief Act (23 of 1954)

—S. 2 (5) (6) (i) — C. R. Appln. No. 477 of 1960, D/- 12-2-1963(Guj)—**Revers.** AIR 1969 SC 69A (Jan).

—S. 7 — C. R. Appln. No. 477 of 1963 D/- 12-2-1963 (Guj)—**Revers.** AIR 1969 SC 69A (Jan).

—Usurious Loans Act (10 of 1918)

—S. 2 (3) (b) and (3) — Reg. Appeal No. 134 of 1953, D/- 19-9-1958 (Mys) — **Revers.** AIR 1969 SC 751C (Sep).

—S. 2 (3) (a) (b) and (c)—AIR 1953 Punj 116—**Over.** AIR 1969 SC 751F (Sep).

—S. 3 (3) — Reg. Appeal No. 134 of 1953, D/- 19-9-1958 (Mys)—**Revers.** AIR 1969 SC 751D (Sep).

Defence of India Act (52 of 1962)

—S. 29—AIR 1966 Punj 141—**Revers.** AIR 1969 SC 483 (Jun).

—S. 40—AIR 1966 Punj 141—**Revers.** AIR 1969 SC 483 (Jun).

Displaced Persons (Compensation and Rehabilitation) Act (44 of 1954)

—S. 20B — L. P. A. No. 37 of 1967, D/- 3-5-1967 (Punj & Har.)—**Revers.** AIR 1969 SC 1126B (Dec).

East Punjab Factories (Control of Dismantling) Act (20 of 1948)

—S. 3 — L. P. A. No. 405 of 1958, D/- 3-10-1961 (Punj)—**Revers.** AIR 1969 SC 27 (Jan).

Electricity Act (9 of 1910)

—S. 3 (f) and Sch. Cl. (12) — F. A. No. 67 of 1956, D/- 22-9-1964 (Raj)—**Revers.** AIR 1969 SC 227C (Mar).

Electricity Act (contd.)

—S. 7 (1), (2), (4) (Prior to its amendment in 1959) — Spl. Civil Appln. No. 94 of 1962, D/- 31-10-1963 (Guj) — Revers. AIR 1969 SC 239A (Mar).

Electricity (Supply) Act (54 of 1948)

—S. 2 (8) — S. A. Nos. 33 and 34 of 1964, D/- 4-7-1964 (Guj) — Revers. AIR 1969 SC 770 (Sep).
—S. 19 (1) (b) (ii) — S. A. Nos. 33 and 34 of 1964, D/- 4-7-1964 (Guj) — Revers. AIR 1969 SC 770 (Sep).

Essential Supplies (Temporary Powers) Act (24 of 1946)

—S. 17 (4), Proviso — AIR 1964 Ker 92 — Revers. AIR 1969 SC 504A (Jun).

Evidence Act (1 of 1872)

—S. 3—AIR 1918 Cal 932—Over. AIR 1969 SC 724A (Aug).
—S. 3—AIR 1964 M P 196 — Revers. AIR 1969 SC 255B (Mar).
—S. 3—AIR 1930 Mad 896 — Over. AIR 1969 SC 724A (Aug).
—S. 3—AIR 1934 Mad 40—Over. AIR 1969 SC 724A (Aug).
—S. 3—AIR 1935, Mad 673 — Over. AIR 1969 SC 724A (Aug).
—Ss. 101 and 104 — AIR 1964 Pat 254 — Revers. AIR 1969 SC 204B (Mar).
—S. 160 — AIR 1932 Lah 7 — Over. AIR 1969 SC 851A (Oct).
—S. 160—AIR 1938 Lah 629 — Over. AIR 1969 SC 851A (Oct).

**Fugitive Offenders Act (1881)
(44 & 45 Vict C 69)**

—S. 13—AIR 1968 Cal 220— Revers. AIR 1969 SC 1171 (Dec).
—S. 26—AIR 1968 Cal 220—Revers. AIR 1969 SC 1171 (Dec).

General Clauses Act (10 of 1878)

—S. 8 (1)—AIR 1965 All 269—Revers. AIR 1969 SC 474 (June).
—S. 22 — C. W. Petn. No. 401 of 1963, D/- 3-4-1965 (Raj) — Revers. AIR 1969 SC 830 (Oct).

Hindu Law

—Doctrine of—I L R (1964) 2 All 191 — Revers. AIR 1969 SC 135B (Feb).
—Manager — (1966) 2 Andh L T 423 — Revers. AIR 1969 SC 682A (Aug).
—Manager — I L R 1967 Andh Pra 729 — Revers. AIR 1969 SC 682A (Aug).

Hindu Law (contd.)

—Widow — AIR 1964 Pat 254 — Revers. AIR 1969 SC 204C (Mar).

Hindu Succession Act (30 of 1956)

—S. 2 — S. A. No. 254 of 1962, D/- 18-11-1963 (Punj) — Revers. AIR 1969 SC 1144A (Dec).
—S. 4 — S. A. No. 254 of 1962, D/- 18-11-1963 (Punj) — Revers. AIR 1969 SC 1144C (Dec).

Income Tax Act (11 of 1922)

—S. 2 (6A)—AIR 1964 All 457 — Revers. AIR 1969 SC 840A (Oct).
—S. 2 (6A) — I. T. Ref. No. 16 of 1948, D/- 23-3-1949 (Bom) — Over. AIR 1969 SC 840A (Oct).
—S. 2(11) (as it stood before amendment by Finance Act of 1955)—(1963) 49 ITR 369 (Bom)—Partly revers. AIR 1969 SC 292 (Apr).
—Ss. 3 and 4 — (1965) 1 I T J 98 (Cal) — Revers. AIR 1969 SC 1160C (Dec).
—S. 4—AIR 1964 All 457 — Revers. AIR 1969 SC 840A (Oct).
—S. 4 — I. T. Ref. No. 16 of 1948, D/- 23-3-1949 (Bom) — Over. AIR 1969 SC 840A (Oct).
—S. 6 — AIR 1965 All 94 — Revers. AIR 1969 SC 209 (Mar).
—S. 10—AIR 1965 All 94 — Revers. AIR 1969 SC 209 (Mar).
—S. 10 — I. T. Ref. No. 65 of 1954, D/- 27-4-1963 (Cal)—Revers. AIR 1969 SC 1183 (Dec).
—S. 10 (1) — A I R 1964 All 457—Revers. AIR 1969 S C 840A (Oct).
—S. 10 (2) — A I R 1956 Bom 415—Over. AIR 1969 S C 812A (Sep).
—S. 10 (2) — A I R 1959 Bom 150—Over. AIR 1969 S C 812A (Sep).
—S. 10 (2) — I. T. Ref. No. 38 of 1952 D/- 2-6-1953 (Cal) — Over. AIR 1969 S C 862 (Oct).
—S. 10 (2) — (1966) 1 I. T. J. 824 (Cal)—Revers. AIR 1969 S C 775 (Sep).
—S. 10 (2) — (1966) 1 I. T. J. 602 (Guj)—Revers. AIR 1969 S C 812A (Sep).
—S. 10 (2)—(1963) 49 I. T. R. 927 (Ker) — Over. AIR 1969 S C 812A (Sep).
—S. 10 (2)—(1964) 51 I. T. R. 631 (Mad)—Over. AIR 1969 S C 812A (Sep).

Income-tax Act (1922) (contd.)

- S. 10 (2), (vi) — (1965) 57 I. T. R. 774 (Cal) — **Revers.** AIR 1969 S C 1262D (Dec).
- S. 10 (2) (vii), 2nd Proviso—A I R 1965 Ker 222—**Revers.** A I R 1969 S C 869 (Oct).
- S. 10 (2) (xv), (x) — (1933) 48 I. T. R. 346 (All)—**Revers.** A I R 1969 S C 609 (Aug).
- S. 10 (2) (xv) — (1965) 1 I. T. J. 98 (Cal) —**Revers.** AIR 1969 S C 1160B (Dec).
- S. 10 (2-A)—I. T. Ref. No. 215 of 1961, D/- 14-1-1965 (Cal) — **Revers.** AIR 1969 S C 572 (Jul).
- S. 23 (5) (a) (ii) — Ref. No. 38 of 1952 D/- 2-6-1953 (Cal)—**Over.** A I R 1969 S C 862 (Oct).
- S. 23A (1) (as it stood before its amendment by Finance Act of 1955)—(1963) 49 I T R 369 (Bom) — **Partly Revers.** AIR 1969 S C 292 (Apr).
- S. 23A (4) — I L R (1963) 2 All 325 — **Revers.** AIR 1969 S C 501 (Jun).
- S. 24 (1), First Proviso, Expln. (1)—AIR 1965 All 94 — **Revers.** A I R 1969 S C 209 (Mar).
- S. 24 (1) — I. T. Ref. No. 38 of 1960, D/- 29-8-1963 (Cal) — **Revers.** A I R 1969 S C 1241B (Dec).
- S. 24 (2) (Prior to its amendment in 1955) — I. T. Ref. No. 130 of 19-1 D/- 26-3-1965 (Cal)—**Revers.** AIR 1969 S C 946 (Nov).
- S. 26—(1966) ILR 45 Pat 121 — **Revers.** AIR 1969 S C 1352A (Dec).
- S. 28—(1966) I L R 45 Pat 121—**Revers.** AIR 1969 S C 1352A (Dec).
- S. 29 — AIR 1961 All 133—**Over.** AIR 1969 S C 667A (Aug).
- S. 29—(1960) 38 ITR 197 (Mys) — **Over.** AIR 1969 S C 667A (Aug).
- S. 33 (4)—AIR 1952 All 857—**Over.** AIR 1969 S C 1068 (Nov).
- S. 33 (4)—AIR 1955 Mad 39—**Over.** AIR 1969 S C 1068 (Nov).
- S. 34—(1968) 1 ITJ 662—**Revers.** A I R 1969 S C 944 (Nov).
- S. 44 (Prior to its amendment by Act 11 of 1958)—(1966) 59 ITR 315 (A. P)—**Revers.** AIR 1969 S C 285 (Apr).
- S. 44—(1966) ILR 45 Pat 121 — **Revers.** AIR 1969 S C 1352A (Dec).
- S. 46 (2)—AIR 1961 All 133—**Over.** AIR 1969 S C 667A (Aug).
- S. 46 (2) — (1960) 38 I T R 197 (Mys)—**Over.** AIR 1969 S C 667A (Aug).
- S. 66 — I. T. Ref. No. 130 of 1961 D/- 26-3-1965 (Cal) — **Revers.** A I R 1969 S C 946 (Nov).

Income-tax Act (1922) (contd.)

- S. 66 (1) & (2) — I. T. Ref. No. 73 of 1962, D/- 2-3-1966 (Bom) — **Revers.** AIR 1969 S C 460 (Jun).
- S. 66 (1)—(1965) 1 ITJ 98 (Cal)—**Revers.** AIR 1969 S C 1160A (Dec).

Income-tax Act (43 of 1961)

- Ss. 2 (7), 2 (31)—(1966) 2 Andh L T 423 —**Revers.** AIR 1969 S C 682A (Aug).
- Ss. 2 (7) (31)—ILR 1967 Andh Pra 729—**Revers.** AIR 1969 S C 682A (Aug).
- S. 64 (v) — A I R 1954 Bom 219—**Over.** AIR 1969 S C 883B (Oct).
- S. 64.(v) — (1960) 40 ITR 377 (Mad) — **Over.** AIR 1969 S C 883B (Oct).
- S. 72—AIR 1969 Raj 45—**Revers.** A I R 1969 S C 470A (Jun).
- S. 80—AIR 1966 Raj 45—**Revers.** A I R 1966 S C 470A (Jun).
- S. 140 (b) — (1966) 2 Andh L T 423—**Revers.** AIR 1969 S C 682A (Aug).
- S. 140 (b) — I L R 1967 Andh Pra 729—**Revers.** AIR 1969 S C 682A (Aug).
- S. 141—AIR 1966 Raj 45—**Revers.** AIR 1969 S C 470A (Jun).
- S. 156 — A I R 1968 Mys 258 — **Revers.** AIR 1969 S C 408A, B (May).
- S. 161 (2) — AIR 1954 Bom 219—**Over.** AIR 1969 S C 883B (Oct).
- S. 161 (2)—(1960) 40 I T R 377 (Mad)—**Over.** AIR 1969 S C 883B (Oct).
- S. 220 — A I R 1968 Mys 258—**Revers.** AIR 1969 S C 408A (May).
- S. 221 — A I R 1968 Mys 258 — **Revers.** AIR 1969 S C 408A (May).
- S. 222—(1966) 2 Andh L T 423—**Revers.** AIR 1969 S C 682A (Aug).
- S. 222 — I L R 1967 Andh Pra 729 — **Revers.** AIR 1969 S C 682A (Aug).
- S. 222 — A I R 1968 Mys 258 — **Revers.** AIR 1969 S C 408A (May).
- S. 226 (3) — AIR 1968 Mys 258—**Revers.** AIR 1969 SC 408A, B (May).
- Ss. 276 and 276A—1966-2 Andh L T 423 — **Revers.** AIR 1969 SC 682A (Aug).
- Ss. 276, 276A—ILR 1967 Andh Pra 729 — **Revers.** AIR 1969 SC 682A (Aug).
- S. 277—(1966) 2 Andh L T 423—**Revers.** AIR 1969 SC 682A (Aug).
- S. 277—ILR 1967 Andh Pra 729—**Revers.** AIR 1969 SC 682A (Aug).
- S. 282 (2) — (1966) 2 Andh L T 423 — **Revers.** AIR 1969 SC 682A (Aug).
- S. 282 (2)—I L R 1967 Andh Pra 729 — **Revers.** AIR 1969 SC 682A (Aug).
- S. 297 (2) (j) — AIR 1968 Mys 258 — **Revers.** AIR 1969 SC 408A (May).
- Sch. 2, Rr. 1 (b), 2 — (1966) 2 Andh L T 423—**Revers.** AIR 1969 SC 682A (Aug).
- Sch. 2, Rr. 1.(b), 2—ILR 1967 Andh Pra 729—**Revers.** AIR 1969 SC 682A (Aug).

Income-tax Act (1961) (*contd.*)

—Sch. 2, Rr. 16 and 73 — (1966) 2 Andh L T 423 — **Revers.** AIR 1969 S C 682A (Aug).

—Sch. 2, Rr. 16 and 73—I L R 1967 Andh Pra 729 — **Revers.** AIR 1969 S C 682A (Aug).

Income Tax (Appellate Tribunal) Rules (1946)

—R. 24 — AIR 1952 All 857 — **Over.** AIR 1969 SC 1068 (Nov).

—R. 24 — AIR 1955 Mad 39 — **Over.** AIR 1969 SC 1068 (Nov).

Industrial Disputes Act (14 of 1947)

—S. 2(j) — I. T. No. 347 of 1964, D/- 30.6.1965 (Mah)—**Revers.** AIR 1969 SC 276 (Apr).

—S. 10 (2) — Ref. No. 32 of 1963, D/- 28.9.1964 (I. T. Bihar) — **Revers.** AIR 1969 SC 306A (Apr).

—S. 25FF — (1967) 1 Lab L J 232 (Punj)—**Over.** AIR 1969 SC 590 (July).

—S. 25FFF — Industrial Disputes Case No. 1 of 1967, D/- 5.12.1967 (Spl. Ind. Tribunal Orissa) —**Revers.** AIR 1969 SC 90 (Jan).

—S. 33A — AIR 1964 Pat 180 — **Over.** AIR 1969 SC 992C (Nov).

—S. 33C (2)—70 Bom L R 500—**Over.** AIR 1969 SC 1335C (Dec).

—Sch. 3, Item 4— Ref. No. 32 of 1963, D/- 28.9.1964 (I. T. Bihar) — **Revers.** AIR 1969 SC 306C (Apr).

Limitation Act (8 of 1908)

—S. 5 — Misc. Civil Petn. No. 64 of 1961, D/- 13.11.1962 (MP) — **Revers.** (M. B. Abolition of Jagirs Act (28 of 1951), Ss. 29, 30 and Limitation Act (1908), S. 5). AIR 1969 SC 953 (Nov).

—S. 13—AIR 1928 Mad 1088—**Held rightly Overruled** by AIR 1955 Mad 96 (FB) as interpreted in AIR 1969 S C 552B (July).

—S. 13—AIR 1944 Mad 437—**Held rightly Overruled** by AIR 1955 Mad 96 (FB) as interpreted in AIR 1969 SC 552B (July).

—Art. 95 — AIR 1923 Mad 1088 — **Held rightly Overruled** by AIR 1955 Mad 96 (FB) as interpreted in AIR 1969 S C 552B (July).

—Art. 95 — A I R 1944 Mad 437 — **Held rightly Overruled** by AIR 1955 Mad 96 (FB)—as interpreted in AIR 1969 S C 552B (July).

—Art. 141—AIR 1964 Pat 254—**DISS.** AIR 1969 S C 201C (Mar).

Limitation Act (1908) (*contd.*)

—Art. 181—AIR 1965 All 269 — **Reverse.** AIR 1969 S C 474C (June).

Limitation Act (36 of 1963)

—S. 5—(1968) 70 Pun LR (D) 332—**Revers.** AIR 1969 S C 575B (July).

—Art. 137—(1968) 70 Bom L R 104—**Over.** AIR 1969 S C 1335C (Dec).

Motor Vehicles Act (4 of 1939)

—S. 3 (3), (19) (20) (22) (23) — A I R 1962 Andh-Pra 14 — **Over.** A I R 1969 S C 493A (June).

—S. 3 (3), (19), (20), (22), (23) — AIR 1963 Mad 413—**Over.** AIR 1969 S C 493A (June).

—S. 3 (3), (19), (20), (22) (23) — AIR 1967 Mad 100—**Revers.** AIR 1969 S C 493A (June).

—S. 42 (1) — AIR 1963 Mad 413 — **Over.** AIR 1969 S C 493A (June).

—S. 42 (1)—AIR 1967 Mad 100 — **Revers.** AIR 1969 S C 493A (June).

—S. 46 — Spl. Civil Appln Nos. 575 to 596, 634, 540 and 570 to 572 of 1967, D/- 20.10.1967 (Bom) — **Revers.** AIR 1969 S C 329A (April).

—S. 48 — Spl. Civil Appln. Nos. 575 to 596, 634, 540 and 570 to 572 of 1967, D/- 20.10.1967 (Bom) — **Revers.** AIR 1969 S C 329B, D (April).

—S. 57 — Spl. Appln. Nos. 575 to 596, 634, 540 and 570 to 572 of 1967, D/- 20.10.1967 (Bom) — **Revers.** AIR 1969 S C 329F (April).

—S. 60 (1) (c) — AIR 1962 A P 14 — **Over.** AIR 1969 S C 493A (June).

—S. 60 (1) (c)—AIR 1967 Mad 100—**Revers.** AIR 1969 S C 493A (June).

MUNICIPALITIES

—Ajmer Merwara Municipalities Regulation (6 of 1925)

—S. 233 — F. A. No. 67 of 1956, D/- 22.9.1964 (Raj)—**Revers.** AIR 1969 S C 227A (March).

Mysore Excise Act (21 of 1966)

—S. 15—(1968) 16 Law Rep 235 Mys — **Revers.** AIR 1969 S C 655C (Aug).

Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967)

—Rr. 17 (2) and 20 (2) — (1968) 16 Law Reports 235 — **Revers.** AIR 1969 S C 655C (Aug).

Opium Act (1 of 1878)

—S. 9 (a)—AIR 1963 Madh-Pra 337—Over. AIR 1969 S C 4B (Jan).

Orissa Kendu Leaves (Control of Trade) Act (28 of 1961)

—S. 10 — AIR 1968 Orissa 189 — Revers. AIR 1969 S C 1081A (Nov).

Partnership Act (9 of 1932)

—S. 25 — AIR 1961 All 133 — Over. AIR 1969 S C 667A (Aug).

—S. 25 (1960) ITR 197 (Mys)—Over. AIR 1969 S C 667A (Aug).

Payment of Wages Act (4 of 1936)

—S. 2 (vi) (d) (as amended by Act 68 of 1959) — (1967) 1 Lab L J 232 (Punj)—Over. AIR 1969 S C 590 (July).

—S. 15 (2) (as amended by Act 68 of 1957) — (1967) 1 Lab L J 232 (Punj) — Over. AIR 1969 S C 590 (July).

Penal Code (45 of 1860)

—S. 20—AIR 1918 Cal 932 — Over. AIR 1969 S C 724A (Aug).

—S. 20—AIR 1930 Mad 896 — Over. AIR 1969 S C 724A (Aug).

—S. 20—AIR 1934 Mad 40 — Over. AIR 1969 S C 724A (Aug).

—S. 20—AIR 1935 Mad 673— Over. AIR 1969 S C 724A (Aug).

—S. 193 — C. R. No. 34 M. of 1965 D/- 11-12-1966 (Punj) — Revers. AIR 1969 S C 355B (May).

—S. 199 — Cri. App. No. 4 of 1967, D/- 10-11-1967 (Pat) — Revers. AIR 1969 S C 7 (Jan).

—S. 200 — Cri. App. No. 4 of 1967, D/- 10-11-1967 (Pat) — Revers. AIR 1969 S C 7 (Jan).

—S. 211—AIR 1928 All 765 — Over. AIR 1969 S C 355A (May).

—S. 465—AIR 1918 Cal 932 — Over. AIR 1969 S C 724A (Aug).

—S. 465—AIR 1930 Mad 896—Over. AIR 1969 S C 724A (Aug).

—S. 465—AIR 1934 Mad 40 — Over. AIR 1969 S C 724A (Aug).

—S. 465—AIR 1935 Mad 673—Over. AIR 1969 S C 724A (Aug).

—S. 471 — AIR 1918 Cal 932—Over. AIR 1969 S C 724A (Aug).

—S. 471—AIR 1930 Mad 896—Over. AIR 1969 S C 724A (Aug).

—S. 471—AIR 1934 Mad 40 —Over. AIR 1969 S C 724A (Aug).

—S. 471—AIR 1935 Mad 673—Over. AIR 1969 S C 724A (Aug).

Police Act (5 of 1861)

—S. 7—S. A. No. 1271 of 1962 D/- 2-3-1965 (All) — Revers. AIR 1969 S C 1020A (Nov).

Provident Funds Act (19 of 1925)

—S. 3—AIR 1962 Cal 169 — Revers. AIR 1969 S C 762 (Sep).

PUBLIC SAFETY

—Travancore-Cochin Public Safety Measures Act (5 of 1950)

—S. 3—AIR 1954 Trav-Co 34—Over. AIR 1969 S C 504B (June).

—S. 3—AIR 1954 Trav-Co 257—Over. AIR 1969 S C 504B (June).

—S. 3—AIR 1955 Trav-Co 82 (FB)—Over. AIR 1969 S C 504B (June).

—S. 3—AIR 1964 Ker 92 — Revers. AIR 1969 S C 504B (June)

—S. 73 (2)—A I R 1964 Ker 92 — Revers. AIR 1969 S C 504B (June).

Punjab Cattle Fairs (Regulation) Act (6 of 1968)

—Pre—AIR 1968 Punj 390 — Over. AIR 1969 S C 1100A (Nov).

Punjab Custom (Power to Contest) Act (2 of 1920)

—S. 8 — S. A. No. 254 of 1962, D/- 18-11-1963 (Punj)—Revers. A I R 1969 S C 1144A, C (Dec).

Punjab Legislative Assembly Rules of Procedure and Conduct of Business

—R. 105 — I L R (1968) 2 Punj & Har 41 (FB) — Revers. AIR 1969 SC 903F, C (Oct).

—R. 112—ILR (1968) 2 Punj & Har 42 (FB) —Revers. A I R 1969 S C 903G (Oct).

Punjab Legislature (Regulation of Procedure in Relation to Financial Business)

Ordinance (1 of 1968)
—ILR (1968) 2 Punj & Har 42 (FB)—Revers. AIR 1969 S C 903E F, G (Oct).

Railways Act (9 of 1890)

—S. 3 (6)—(Prior to its amendment in 1961)—AIR 1962 Cal 42—Revers. AIR 1969 S C 23A (Jan).

—S. 77—(Prior to its amendment in 1961)—AIR 1962 Cal 42—Revers. A I R 1969 S C 23A (Jan).

—S. 80—AIR 1920 Oudh 70 — Over. AIR 1969 SC 817B (Oct).

—S. 80—AIR 1956 Cal 390 — Over. A I R 1969 S C 817B (Oct).

Specific Relief Act (1 of 1877)

- S. 55 — AIR 1967 Mad 100 — Revers.
AIR 1969 S C 493A (June)

STAMP DUTY

—Stamp Act (2 of 1895)

- S. 35 — AIR 1952 All 996 — Over. AIR
1969 S C 1238A (Dec)
—S. 36 — AIR 1952 All 996 — Over. AIR
1969 S C 1238A (Dec)

Succession Act (39 of 1925)

- S. 105 — L. P. A. No. 2 of 1963, D/-
9-3-1964 (A P) — Revers. AIR 1969
S C 1355C (Dec)
—S. 180—ILR (1965) 2 Ker 141—Revers.
AIR 1969 S C 1311 (Dec)

TENANCY LAWS

—Bihar Land Reforms Act (30 of 1950)

- S. 3—A I R 1963 Pat 412 (FB) — Over.
AIR 1969 S C 971B (Nov).
—S. 14 — A I R 1963 Pat 412 (FB)—Over.
AIR 1969 S C 971B (Nov).

—Bihar Land Reforms (Fixation of Ceiling
Area and Acquisition of Surplus
Land Act (11 of 1962)

- S. 16—1968 Pat L J R 384—Revers. AIR
1969 S C 244C, E (Mar).

**Bombay Tenancy and Agricultural
Lands Act (67 of (1948)**

- S. 65 (1)—I L R 1966 Guj 1113—Revers.
AIR 1969 S C 165B, C (Feb).
—S. 70 — App No. 1009 of 1960, D/-
5-2-1963 (Guj)—Revers. AIR 1969 S C
439B (June).
—S. 85 — App No. 1009 of 1960, D/-
5-2-1963 (Guj)—Revers. AIR 1969 S C
439B (June).
—S. 85A — App. No. 1009 of 1960,
D/- 5-2-1963 (Guj)—Revers. AIR 1969
S C 439D (June).

—M. B. Abolition of Jagirs Act (28 of 1951)

- S. 29—Misc. Civil Revn. Petn. No. 64 of
1961, D/- 13-11-1962 (MP) — Revers.
AIR 1969 S C 953 (Nov).
—S. 30 — Misc. Civil Revn. Petn. No. 64
of 1961, D/- 13-11-1962 (MP)—Revers.
AIR 1969 S C 953 (Nov).

**Madras City Tenants Protection Act
(3 of 1922)**

- S. 2 (2), (1) — A. A. O. No. 1 of 1962,
D/- 26-4-1965 (Mad)—Revers. AIR 1969
SC 435 (June).

—Oudh Estates Act (1869)

- S. 22 (7)—ILR (1964) 2 All 191—Revers.
AIR 1969 S C 135B (Feb).

Tenancy Laws (contd.)

—Sonthal Parganas Settlement Regulation
(3 of 1872)

- S. 27 (1) — AIR 1964 Pat 254 — Revers.
AIR 1969 S C 204B (Mar).

—U. P. Tenancy Act (17 of 1939)

- S. 168—ILR (1965) 2 All 383 — Revers.
AIR 1969 S C 1270 (Dec).
—S. 271 (2) — ILR (1965) 2 All 383 —
Revers. AIR 1969 S C 1270 (Dec).

Trade Unions Act (16 of 1926)

- S. 28K — Ref. No. 32 of 1963, D/-
20-9-1964 (Ind. Tri. Bihar) — Revers.
AIR 1969 S C 306C (Apr)
—S. 29 — Ref. No. 32 of 1963, D/-
20-9-1964 (Ind. Tri. Bihar) — Revers.
AIR 1969 S C 306A (Apr).
—S. 30 (3) — Ref. No. 32 of 1963, D/-
29-9-1964 (Ind. Tri. Bihar) — Revers.
A I R 1969 S C 306A (Apr).

Transfer of Property Act (4 of 1882)

- S. 3 — A I R 1939 Mad 202—Over. AIR
1969 S C 1147B (Dec).
—S. 3—AIR 1940 Mad 140 — Over. A I R
1969 S C 1147B (Dec).
—S. 3 — O. S. A. Nos. 65, 70, 71 of
1956, D/- 28-7-1961 (Mad) — Revers.
AIR 1969 S C 1147B (Dec).
—S. 6 (e) — A I R 1963 Madh Pra 132 —
Revers. AIR 1969 S C 313 (Apr).
—S. 54—AIR 1928 All 726 (FB)—Held no
longer good law in view of T. P.
(Amendment) Supplementary Act (1929)
—AIR 1969 S C 1316A (Dec).
—S. 54 — A I R 1917 Bom 203—Held no
longer good law in view of T. P.
(Amendment) Supplementary Act (1929)
—AIR 1969 S C 1316A (Dec).
—S. 54—AIR 1921 Mad 337 (FB) — Held
no longer good law in view of T. P.
(Amendment) Supplementary Act (1929)
—AIR 1969 S C 1316 (Dec).
—S. 59—AIR 1939 Mad 202—Over. A I R
1969 S C 1147B (Dec).
—S. 59—AIR 1940 Mad 140 — Over. AIR
1969 S C 1147B (Dec).
—S. 59 — O. S. A. Nos. 65, 70, 71 of
1956, D/- 28-7-1961 (Mad) — Revers.
AIR 1969 S C 1147B (Dec).
—S. 60 — Reg. Appln. No. 134 of 1953,
D/- 19-9-1958 (Mys) — Revers. A I R
1967 S C 751C (Sep).
—S. 76 — Reg. Appln. No. 134 of 1953,
D/- 19-9-1958 (Mys)—Revers. AIR 1967
SC 751C (Sep).

T. P. Act (cont'd.)

- S. 83—(58) Reg. Appln. No. 134 of 1953, D/- 19.9.1958 (Mys) — **Revers.** A I R 1967 S C 751C (Sep).
- S. 100—AIR 1939 Mad 202—**Over.** AIR 1969 S C 1147B (Dec).
- S. 100—AIR 1940 Mad 140—**Over.** AIR 1969 S C 1147B (Dec).
- S. 100—O. S. A. Nos. 65, 70, 71 of 1956, D/- 28.7.1961 (Mad) — **Revers.** A I R 1969 S C 1147B (Dec).
- S. 108 (b) — I L R (1964) 1 Punj 626 — **Over.** AIR 1969 S C 1273 (Dec).
- S. 108 (l) — Civ. Rev. No. 750 of 1962, D/- 18.3.1961 (Punj) — **Revers.** A I R 1969 S C 1273 (Dec).

T. P. Act (cont'd.)

- S. 130 — A I R 1963 M. P. 132—**Revers.** AIR 1969 S C 313 (Apr).

Trusts Act (2 of 1882)

- S. 88—AIR 1960 Mad 410—**Revers.** AIR 1969 S C 843A (Oct).

Words and Phrases

- “Arrears of interest”—AIR 1959 Mys 102 — **Revers.** AIR 1969 S C 671B (Aug).
- “Cattle fair”—AIR 1968 Punj 391—**Over.** AIR 1969 S C 1100A (Nov).
- Which ought to have been passed — S. A. No. 254 of 1962, D/- 18.11.1963 (Punj) — **Revers.** AIR 1969 S C 1144B (Dec).

COURTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969 SUPREME COURT

Diss.=Dissented from in; Not F.=Not followed in; **Over.**=Overruled in; **Revers.**=Reversed in.

Supreme Court

- (50) AIR 1950 SC 222=1950 SCR 621, Province of Bombay v. Khushaldas—**Held no longer good law** in view of AIR 1967 SC 1269 as interpreted A I R 1939 Cal 397D (Aug).
- (60) AIR 1960 SC 131=(1960) 1 SCR 902, Keshav Laxman Borkar v. Deorao Laxman Anande—**Over.** AIR 1969 SC 604 (July).
- (62) 46 ITR 609 (SC), Second Additional Income-tax Officer, Guntur v. Atmala Nagraj—**Held overruled by** AIR 1968 SC 623 as interpreted AIR 1969 Andh Pra 441C (Dec).
- (65) AIR 1965 SC 1510=(1965) 16 STC 231, State of Mysore v. Lekshminarasimhiah Shetty and Sons—**Diss.** AIR 1969 Ker 205 (July).
- (67) View taken by Sarkar, C. J., and Mudholkar, J. in AIR 1967 SC 295=(1966) Supp SCR 311, Barium Chemicals Ltd. v. Company Law Board—**Not approved.** AIR 1969 SC 707B (Aug).
- (67) AIR 1967 SC 637=(1967) 1 SCR 255, Union of India v. Metal Corporation of India—**Over.** AIR 1969 SC 634B (Aug).
- (69) AIR 1969 SC 147=C. A. No. 763 of 1937, D/- 13.4.1968, State of Madras v. Nataraj Mudaliar—**Diss.** AIR 1969 Ker 205 (July).

Allahabad

- (14) AIR 1914 All 173=ILR 36 All 446, Mata Prasad v. Ram Charan Sahu—**Disapproved.** AIR 1967 SC 316A (Apr).
- (20) AIR 1920 Oudh 70=23 Oudh Cas 96, Secretary of State v. Afzal Hussain—**Over.** AIR 1969 SC 817B (Oct).
- (28) AIR 1928 All 726=ILR 50 All 986 (FB), Sohan Lal v. Mohan Lal—**Held no longer good law** in view of T. P. (Amendment) Supplementary Act (21 of 1929). AIR 1969 SC 1316A (Dec).
- (28) AIR 1928 All 765=ILR 51 All 382=29 Cri L J 938, Emperor v. Prag Datt—**Over.** AIR 1969 SC 355A (May).
- (52) AIR 1952 All 857=(1952) 22 ITR 104, Bhagwan Radhakisan v. Commr. of Income-tax U.P.—**Over.** AIR 1969 SC 1068 (Nov).
- (52) AIR 1952 All 996=ILR (1952) 2 All 984, Mst. Bittan Bibi v. Kuntu Lal—**Over.** AIR 1969 SC 1238A (Dec).
- (61) AIR 1961 All 133=(1960) 39 ITR 497, Motilal Purshotam Das v. Income-tax Officer Kanpur—**Over.** AIR 1969 SC 667A (Aug).
- F. A. No. 205 of 1950, D/- 24.4.1962 (All) — **Revers.** AIR 1969 SC 674B (Aug).
- (63) AIR 1963 All 260=(1963) 1 Cri L J 724, Abida Khatoon v. State of U. P.—**Over.** AIR 1969 SC 1234A (Dec).

Allahabad (contd.)

- (63) ILR (1963) 2 All 325, L. Laksmipat Singhania v. Commr. of Income-tax—**Revers.** AIR 1969 SC 501 (June).
- (63) 48 ITR 346 (All)—**Revers.** AIR 1969 SC 609 (Aug).
- S. A. No. 3809 of 1958, D/- 11-12-1963 (All) — **Revers.** AIR 1969 SC 1234A (Dec).
- (64) AIR 1964 All 441, Loon Karan Sethiya v. Evan E. John—**Revers.** AIR 1969 SC 73 (Jan).
- (64) AIR 1964 All 457=(1964) 1 ITJ 226=1964 All L J 217 (FB), Kunji Lal v. Income-tax Commr.—**Revers.** AIR 1969 SC 840A (Oct).
- (64) ILR (1964) 2 All 191, Raj Kumar Mohan Singh v. Rajkumar Pashupati Nath Saran Singh — **Revers.** AIR 1969 SC 135B (Feb).
- S. As. Nos. 4940 and 3660 of 1961, D/- 27-4-1964 (All)—**Revers.** AIR 1969 SC 1316B (Dec).
- (65) AIR 1965 All 94=(1964) 2 ITJ 597 = (1965) 55 ITR 501, Jaganath Mahadeo Prasad v. Commr. of Income-tax—**Revers.** AIR 1969 SC 209 (Mar).
- (65) AIR 1965 All 269=1964 All L J 771=ILR (1964) 2 All 120, Union of India v. Mahomed Usman—**Revers.** AIR 1969 SC 474 (June).
- (65) AIR 1965 All 586, National Building Material Supply v. Jai Jai Ram Manohar Lal—**Revers.** AIR 1969 SC 1267A (Dec).
- (65) ILR (1965) 2 All 383, Riazuddin Tailor v. Bolak Sing — **Revers.** AIR 1969 SC 1270 (Dec).
- Cri. Misc. Contempt Case No. 7 of 1965, D/- 3-8-1965 (All)—**Revers.** AIR 1969 SC 30 (Jan).
- S. A. No. 1271 of 1962, D/- 2-3-1965 (All) — **Revers.** AIR 1969 SC 1020A (Nov).
- (67) S. A. No. 322 of 1964, D/- 27-3-1967 (All)—**Revers.** AIR 1969 SC 556 (July).
- (68) (1968) 1 ITJ 662 (All), Modi Spinning and Weaving Mills Co. Ltd. v. Income-Officer Meerut—**Revers.** AIR 1969 SC 944 (Nov).

Andhra Pradesh

- (56) AIR 1956 Andh Pra 156=1955 Andh W R 683=1956 Cri L J 970, Kolavenna Venkayya, In re—**Overruled** to the extent it agreed with the view expressed by Narayan J., in AIR 1949 Pat 222 (FB), AIR 1969 SC 30C (Jan).
- (62) AIR 1962 Andh Pra 14=(1959) 2 Andh W R 407, Venkataswami v. Kotayya—**Over.** AIR 1969 SC 493A (June).

Andhra Pradesh (contd.)

- L. P. A. No. 2 of 1963, D/- 1-3-1964 (AP) — **Revers.** A I R 1969 S C 1355C (Dec).
- (66) 2 Andh L T 423, Kapur Chand v. Tax Recovery Officer Spl. Dy. Collector Income-tax. Arrears Hyderabad — **Revers.** AIR 1969 SC 682A (Aug).
- (1966) 59 ITR 315 (Andh Pra), Kalva Suryanarayana v. Income Tax Officer — **Revers.** AIR 1969 S C 285 (Apr).
- (67) ILR 1967 Andh Pra 361, R. Natarajan v. Regional Asst. Commr. of Labour Hyderabad—**Revers.** AIR 1969 SC 1306A (Dec).
- (67) ILR 1967 Andh Pra 729, Kapurchand Shrimal v. Tax Recovery Officer (Spl. Dy. Collector) Income Tax Arrears Hyderabad — **Revers.** AIR 1969 S C 682A (Aug).

Assam

- C. R. Nos. 212 and 213 of 1962, D/- 23-4-1963 (Assam)—**Revers.** AIR 1969 S C 831A (Oct).

Bombay

- AIR 1917 Bom 203=ILR 41 Bom 550, Dawal v. Sharma — **Held no longer good law** in view of T. P. (Amendment) Supplementary Act (21 of 1929) — AIR 1958 S C 1316A (Dec).
- I. T. Ref. No. 16 of 1948, D/- 23-3-1949 (Bom) Commr. of Income Tax Bombay v. Maniklal Chunnilal & Sons Ltd., Bombay — **Over.** AIR 1969 S C 840A (Oct).
- (54) AIR 1954 Bom 219 = (1953) 25 ITR 37, Saifuddin Ali Mohamed v. Commr. of Income Tax — **Over.** AIR 1969 S C 888B (Oct).
- (56) AIR 1956 Bom 415 = (1955) 28 ITR 928, Commr. of Income Tax v. Sir Homi Mohta's Executors — **Over.** AIR 1969 S C 812A (Sep).
- (59) AIR 1959 Bom 150 = 34 ITR 336, Rogers and Co. v. Commr. of Income Tax—**Revers.** AIR 1969 SC 812A (Sep).
- (1963) 49 ITR 369 (Bom), Shree Goverdhan Ltd. v. Commr. of Income Tax—**Partly revers.** AIR 1969 S C 292 (Mar).
- (64) AIR 1964 Bom 147=(1964) 1 Cri LJ 652, Malbar Hill Co-operative Housing Society Ltd. Bombay v. K. L. Gauba—**Held not overruled** in AIR 1967 S C 1494 as interpreted AIR 1969 S C 724A (Aug).
- I. T. No. 347 of 1964, D/- 30-6-1965 (Mah)—**Revers.** AIR 1969 S C 276 (Apr).
- I. T. Ref No. 73 of 1962, D/- 2-3-1966 (Bom) — **Revers.** AIR 1969 S C 460 (June).
- Spl. Civil Appln. Nos. 575 & 596, 634, 540 and 570 to 572 of 1967, D/- 20-10-

Bombay (contd.)

1967 (Bom) — **Revers.** AIR 1969 S C 329B, D, F (Apr).
 ('68) 70 Bom L R 104 = 2 Lab L J 505, Manager M/s. P. K. Porwal v. Labour Court, Nagpur — **Over.** AIR 1969 S C 1335C (Dec).

Calcutta

('18) AIR 1918 Cal 932 = ILR 45 Cal 585 = 19 Cri L J 315, Nando Lal Ganguli v. Khetra Mohan Ghose — **Over.** AIR 1969 S C 724A (Aug).
 Income Tax Ref. No. 38 of 1952, D/- 2-6-1953 (Cal), Ishwardas Subhakaran v. Commr. of I. T. West Bengal — **Over.** AIR 1969 S C 862 (Oct).
 ('56) AIR 1956 Cal 390 = 60 Cal W N 683, D. H. Rly. Co. Ltd. v. Jetmall Bhojraj — **Over.** AIR 1969 S C 817B (Oct).
 ('62) AIR 1962 Cal 42 = 65 Cal W N 876, Nirinjanlal Agarwalla v. Union of India — **Revers.** AIR 1969 S C 23A (Jan).
 ('62) AIR 1962 Cal 169, Union of India v. Kashi Prasad — **Revers.** AIR 1969 S C 762 (Sep).
 ('62) AIR 1962 Cal 203 = (1962) 1 Cri L J 565 (FB), Prova Debi v. Mrs. Fernandes — **Over.** AIR 1969 S C 381 (May).
 Appeal No. 82 of 1959, D/- 17-1-1962 (Cal) — **Revers.** AIR 1969 S C 600B (July).
 I. T. Ref. No. 65 of 1954, D/- 27-4-1963 (Cal) — **Revers.** AIR 1969 S C 1183 (Dec).
 I. T. Ref. No. 38 of 1960, D/- 29-8-1963 (Cal) — **Revers.** AIR 1969 S C 1241B (Dec).
 Cri. Misc. Case No. 28 of 1964, D/- 16-6-1964 (Cal) — **Revers.** A I R 1969 S C 189A, B (Mar).
 Income Tax Ref. No. 130 of 1961, D/- 26-1-1965 (Cal) — **Revers.** AIR 1969 S C 946 (Nov).
 (1965) 1 I. T. J. 98 (Cal), Imperial Chemical Industries (India) Pvt. Ltd. Calcutta v. Commr. of I. T. Calcutta — **Revers.** AIR 1969 S C 1160A, B, C (Dec).
 (1965) 57 I. T. R. 774 (Cal), Commr. of I. T. West Bengal v. Netherland Steam Navigation Co. Ltd. — **Revers.** AIR 1969 S C 1262D (Dec).
 I. T. Ref. No. 215 of 1961, D/- 14-1-1965 (Cal), **Revers.** AIR 1969 S C 572 (July).
 (1966) 1 I. T. J. 824 (Cal), Durga Das Khanna v. Commr. of Income Tax — **Revers.** AIR 1969 S C 775 (Sep).
 AIR 1968 Cal 220, Jugal Kishore More v. Chief Presidency Magistrate Calcutta — **Revers.** AIR 1969 S C 1171 (Dec).

Dalhi

Cri Appeal No. 656 of 1963, D/- 14-12-1964 (Delhi) — **Revers.** AIR 1969 S C 17C (Jan).

Gujarat

Appln. No. 1009 of 1960, D/- 5-2-1963 (Guj) — **Revers.** AIR 1969 S C 439B, D (Jun).
 Civil Revn. Appln. No. 477 of 1960, D/- 12-2-1963 (Guj) — **Revers.** AIR 1969 S C 69A, B (Jan).
 Spl. Civil Appln. No. 94 of 1962, D/- 31-10-1963 (Guj) — **Revers.** A I R 1969 S C 239A (Mar).
 S. A. Nos. 33 and 34 of 1964, D/- 4-7-1964 (Guj) — **Revers.** AIR 1969 S C 770 (Sep).
 ('66) ILR 1966 Guj 1113, Ramanlal Gulabchand v. State of Gujarath — **Revers.** AIR 1969 S C 168B, C (Feb).
 ('66) 1 I. T. J. 602 (Guj), Commr. of Income Tax v. B. M. Kharwar — **Revers.** AIR 1969 S C 812A (Sep).
 ('67) 8 Guj L R 395 = (1966) 2 Lab L J 339, State v. Devendra Prasad — **Revers.** AIR 1969 S C 63 (Jan).
 Ele. Petn. No. 22 of 1967, D/- 23-4-1968 (Guj) — **Revers.** A I R 1969 S C 734C (Aug).
 Spl. Civil Appln. No. 837 of 1960, D/- 24-1-1968 (Guj) — **Revers.** A I R 1969 S C 634B (Aug).

Kerala

('54) AIR 1954 Tra.-Co. 34 = 1954 Cri L J 63, George v. State — **Over.** AIR 1969 S C 504B (Jun).
 ('54) AIR 1954 Tra.-Co. 257 = 1954 Cri L J 669, State v. Philipose Philip — **Over.** AIR 1969 S C 504B (Jun).
 ('55) AIR 1955 Tra.-Co. 82 = 1955 Cri L J 844 (FB), Ulhannam Mathai v. State — **Over.** AIR 1969 S C 504B (June).
 ('63) 49 I T R 927 = 1963 Ker L T 494, Commr. of I. T. v. Morning Stars Service — **Over.** AIR 1969 S C 812A (Sep).
 ('64) AIR 1964 Ker 94 = 1963 Ker L J 876 = 1963 Ker L T 958 = ILR (1963) 2 Ker 591, Koteswar Vittal v. Rangappa Baliga & Co. — **Revers.** AIR 1969 S C 504 A, B (Jun).
 ('65) AIR 1965 Ker 222, K. B. Kalikutti v. I. T. Commr. — **Revers.** A I R 1969 S C 869 (Oct).
 ('65) ILR (1965) 2 Ker 141, Mani Joshna v. Mani Meni — **Revers.** A I R 1969 S C 1311 (Dec).

Madhya Pradesh

('61) AIR 1961 Madh Pra 40 = 1960 M P L J 1209, Mishrimal v. Dist. Co-operative Growers Association Ltd. Balaghat — **Over.** AIR 1969 S C 1320C (Dec).
 Misc. Civil Revn Petn No. 64 of 1961, D/- 13-11-1962 (M P) — **Revers.** A I R 1969 S C 953 (Nov).

Madhya Pradesh (contd.)

- Misc Appeal No. 22 of 1962, D/- 17-9-1962 (MP)—**Revers.** AIR 1969 S C 1118 (Dec).
- (63) AIR 1963 Madh Pra 132=1962 M P C 287=1962 M P L J 685=1962 Jab L J 957, Takhatmal v. Bharat Nidhi Ltd.—**Revers.** AIR 1969 S C 313 (Apr).
- (63) AIR 1963 Madh Pra 337=(1963) 2 Cri L J 629, Sardar Khan Multan Khan v. State—**Over.** AIR 1969 S C 4B (Jan).
- F. A. No. 217 of 1959, D/- 16-4-1963 (Madh Pra)—**Revers.** AIR 1969 S C 1256 A, B (Dec).
- Cri. Misc. Case No. 135 of 1962, D/- 5-4-1963 (M P). **Revers.** AIR 1969 S C 401 A, B (May).
- (64) AIR 1964 M P 196=1964 M P L J 220=1964 Jab L J 288, Collector Raigarh v. Chaturbhuj Panda—**Revers.** AIR 1969 S C 255B (Mar).
- First Applns. Nos. 68, 69, 71 and 70 of 1961, D/- 5-1-1965 (M P)—**Revers.** AIR 1969 S C 70 (Jan).

Madras

- (21) AIR 1921 Mad 337=ILR 44 Mad 55 (FB), Rama Sahu v. Gowro Ratho—**Held no longer good law** in view of T. P. (Amendment) Supplementary Act (1929). AIR 1969 S C 1316A (Dec).
- (28) AIR 1928 Mad 1088=28 Mad L W 645, Rathina v. Packiriswami—**Held rightly overruled** by AIR 1955 Mad 96 (FB) as interpreted AIR 1969 S C 552B (July).
- (30) AIR 1930 Mad 869=32 Cri L J 219, Thadi Subbi Reddi v. Emperor—**Over.** AIR 1969 S C 724A (Aug).
- (34) AIR 1934 Mad 40=ILR 57 Mad 426 (FB), Velayuda Mudali v. Co-operative Rural Credit Society—**Over.** AIR 1969 S C 724 A (Aug).
- (35) AIR 1935 Mad 673=36 Cri L J 895, Y. Mahabaleswarappa v. Gopalasami Mudaliar—**Over.** AIR 1969 S C 724A (Aug).
- (39) AIR 1939 Mad 202=ILR (1939) Mad 199, Vishwanadhan v. M. S. Menon—**Over.** AIR 1969 S C 1147B (Dec).
- (40) AIR 1940 Mad 140=ILR (1940) Mad 306, Shiva Rao v. Shanmugha Sundaraswami—**Over.** AIR 1969 S C 1147B (Dec).
- (44) AIR 1944 Mad 437=(1944) 1 Mad L J 440, Subramnnia Chettiar v. Maruthamuthu—**Held rightly overruled** by AIR 1955 Mad 96 (FB), as interpreted AIR 1969 S C 552B (July).

Madras (contd.)

- (55) AIR 1955 Mad 39=(1955) 27 I T R 161, Ruvula Subbarao v. Commr. of Income Tax—**Over.** AIR 1969 S C 1068 (Nov).
- C.R. Petns. Nos. 981 and 982 of 1956, D/- 17-1-1958 (Mad)—**Revers.** AIR 1969 S C 1344A (Dec).
- (60) AIR 1960 Mad 410, Nellie Wapshare v. Pierce Leslie & Co.—**Revers.** AIR 1969 S C 843A (Oct).
- (60) 40 I T R 377=I L R 1960 Mad 1144, V. Ramaswamy Iyengar v. Commr. of Income Tax—**Over.** AIR 1969 S C 888I (Oct).
- O. S. A. Nos. 65, 70, 71 of 1959, D/- 28-7-1961 (Mad)—**Revers.** AIR 1969 S C 1147E (Dec).
- Appeal No. 367 of 1958, D/- 16-3-1962 (Mad)—**Revers.** AIR 1969 S C 110B (Jan).
- (63) AIR 1963 Mad 413=(1963) 2 Mad L J 20, Varadarajulu Naidu v. Thawasi Nadar—**Over.** AIR 1969 S C 493A (Oct).
- (1964) 51 I T R 631 (Mad), M. C. Cherian v. Commr. of Income Tax—**Over.** AIR 1969 S C 812A (Sep).
- A. A. O. No. 1 of 1962, D/- 26-4-1965 (Mad)—**Revers.** AIR 1969 S C 435 (Jun).
- (67) AIR 1967 Mad 100=(1966) 1 Mad L J 366 (1966) Mad W N 146=(1966) 71 Mad L W 284, Viswanathan Pillai v. Shanmugan—**Revers.** AIR 1969 S C 493A (Jun).
- Writ. Petn. No. 836 of 1966, D/- 7-4-1967 (Mad)—**Revers.** AIR 1966 S C 147 (Feb).
- Ele. Petn. No. 11 of 1967, D/- 28-5-1968 (Mad)—**Revers.** AIR 1969 S C 692C (Aug).

Manipur

- Ele. Petn. Case No. 20 of 1967, D/- 10-1-1968 (Manipur)—**Revers.** AIR 1969 S C 663A (Aug).

Mysore

- Reg. Appeal No. 134 of 1953, D/- 19-9-1958 (Mys)—**Revers.** AIR 1969 S C 751 C, D (Sep).
- (59) AIR 1959 Mys 102, E. Sulah Mohamad v. Khanmul—**Revers.** AIR 1969 S C 671B (Aug).
- (1960) 38 I T R 197 (Mys), Govindaswami v. I. T. Officer Bangalore—**Over.** AIR 1969 S C 667A (Aug).
- (62) AIR 1962 Mys 218, Achiah Chetty v. State of Mysore—**Revers.** AIR 1967 S C 477B (Jun).
- (63) AIR 1963 Mys 265, Govindaraju v. State of Mysore—**Over.** AIR 1969 S C 115A (Jan).

Mysore (contd.)

- (63) Reg. Appeal No. 231 of 1960, D/- 19-6-1963 (Mys)—**Revers.** AIR 1969 S C 1157 (Dec).
 (65) AIR 1965 Mys 25, Govindappa v. I. G. of Registration—**Over.** AIR 1969 S C 118A (Jan).
 (67) Ele. Petn. No. 8 of 1967, D/- 15-9-1967 (Mys)—**Revers.** AIR 1969 S C 447A (Juh).
 (68) AIR 1968 Mys 18, K. K. Hushen Khan v. Nijalingappa — **Revers.** AIR 1969 S C 1034B (Nov).
 (68) AIR 1968 Mys 258, M. Damodar Bhat v. Third Income Tax Officer—**Revers.** AIR 1969 S C 403A, B, C (May).
 (1968) 16 Law Rep. 285—**Revers.** AIR 1969 S C 655C (Aug).

Orissa

- (67) Industrial Disputes Case No. 1 of 1967, D/- 5-12-1967 (Spl. Ind. Tribunal Orissa)—**Revers.** AIR 1969 S C 90A (Jan).
 (67) I L R 1967 Cut 735, Binode Kishore Mohapatra v. State of Orissa — **Revers.** AIR 1969 S C 1249A, B, C (Dec).
 (68) AIR 1968 Orissa 189, Rasbihari Panda v. State—**Revers.** AIR 1969 S C 1081A (Nov).

Nagpur

- (46) AIR 1946 Nag 16=ILR (1945) Nag 677, Kishan Lal v. Co-operative Central Bank, Ltd., Seoni—**Over.** AIR 1969 S C 1320C (Dec).

Patna

- (40) AIR 1940 Pat 176 = 20 Pat L T 801, Bodh Narain Mahto v. Mahabir Prasad — **Over.** AIR 1969 S C 575A (July).
 (47) AIR 1947 Pat 298 = ILR 25 Pat 595, Ram Narain v. Basudeb — **Over.** AIR 1969 S C 971A (Nov).
 (49) AIR 1949 Pat 222 (FB), King v. Parmanand—Broad Observation by Narayan J.—**Over.** AIR 1969 S C 30C (Jan).
 (61) AIR 1961 Pat 321 (FB), Sudhir Kumar v. Nirsi Dhobin — **Revers.** AIR 1969 S C 834 (Oct).
 (62) A. F. O. D. No. 300 of 1959, D/- 3-12-1962 (Pat)—**Revers.** AIR 1969 S C 297 (April).
 (63) AIR 1963 Pat 412 = 1963 B L J R 802 (FB), Sidheshwar Prasad Singh v. Ram Saroop — **Over.** AIR 1969 S C 971B (Nov).
 (64) AIR 1964 Pat 180 = 1964 B L J R 672, Jagadish Vastralaya v. State of Bihar—**Over.** AIR 1969 S C 992C (Nov).
 (64) AIR 1964 Pat 254, Dhankisto Mandal v. Ramkisto Mandal — **Revers.** AIR 1969 S C 204A, B, C (March).

Patna (contd.)

- (64) Ref. No. 32 of 1963, D/- 28-9-1964 (I. T. Bihar) — **Revers.** AIR 1969 S C 306A, C (April).
 (65) Cri. Appeal No. 545 of 1962, D/- 9-2-1965 (Pat) — **Revers.** AIR 1969 S C 53 (Jan).
 (66) ILR 45 Pat 121, Kirkend Coal Company Kursunda v. Commr. of Income Tax Patna — **Revers.** AIR 1969 S C 1352A (Dec).
 1967 B L J R 537, Rohtas Industries Ltd. v. S. D. Agrawal — **Revers.** AIR 1969 S C 707B (Aug).
 (67) Cri. App. No. 4 of 1967, D/- 10-11-1967 (Pat)—**Revers.** AIR 1969 S C 7 (Jan).
 1968 Pat L J R 384, Hiralal Agrawal v. Rampadarath Singh — **Revers.** AIR 1969 S C 244C, E (March).

Punjab

- (32) AIR 1932 Lah 7 = 32 Cri L J 1172, Jagan Nath v. Emperor — **Over.** AIR 1969 S C 851A (Oct).
 (38) AIR 1938 Lah 629 = 39 Cri L J 930, Sodhi Pindi Das v. Emperor — **Over.** AIR 1969 S C 851A (Oct).
 (61) L. P. A. No. 405 of 1958, D/- 3-10-1961 (Punj)—**Revers.** AIR 1969 S C 27 (Jan).
 (63) AIR 1963 Punj 336, Railway Board v. Niranjan Singh — **Revers.** AIR 1969 S C 966A, C (Nov).
 (63) C. R. No. 104-D of 1958, D/- 12-9-1963 (Punj)—**Revers.** AIR 1969 S C 1330B (Dec).
 (64) Civil Rev. No. 750 of 1962, D/- 18-3-1964 (Punj) — **Revers.** AIR 1969 S C 1273 (Dec).
 (63) S. A. No. 254 of 1962, D/- 18-11-1963 (Punj) — **Revers.** AIR 1969 S C 1144A (Dec).
 (64) ILR (1964) 1 Punj 626=66 Punj L R 93, Mam Chand v. Chhotu Ram — **Over.** AIR 1969 S C 1273 (Dec).
 (1964) 15 S T C 865 (Punj), Patel Cotton Co., Private Ltd. v. State of Punjab—**Over.** AIR 1969 S C 1073 (Nov).
 (64) Civil Writ Nos. 2159 of 2309 of 1963, D/- 29-9-1964 (Punj) — **Revers.** AIR 1969 S C 1073 (Nov).
 (66) AIR 1966 Punj 141=ILR (1965) 2 Punj 576 = 1966 Cri L J 434, Harichand v. Batala Engineering Co. — **Revers.** AIR 1969 S C 483 (June).
 (66) Cri. Revn. No. 34 M. of 1965, D/- 4-2-1966 (Punj) — **Revers.** AIR 1969 S C 355B (May).
 (1967) 1 Lab L J 232 = 67 Punj L R 1124, Uttam Chand v. Kartar Singh — **Over.** AIR 1969 S C 590 (July).
 (67) L. P. A. No. 37 of 1967, D/- 3-5-1967 (Punj) — **Revers.** AIR 1969 S C 1126B (Dec).

Punjab (contd.)

- (1968) AIR 1968 Punj 391 = 70 Punj L R 935, Mohinder Singh v. State of Punjab — **Over.** AIR 1969 S C 1100A (Dec).
(1968) ILR (1968) 2 Punj and Haryana 42 (FB). Satya Pal Dang v. State of Punjab — **Revers.** AIR 1969 S C 903E, F, G (Nov).
(1968) 70 Punj L R (D) 332, Shakuntla Devi Jain v. Kanta Kumari — **Revers.** A I R 1969 S C 575B (July).
(1968) Civil Revn. No. 422 of 1968, D/- 22-5-1968 (Punj) — **Revers.** A I R 1969 S C 938 (Nov).

Rajasthan

- (64) F. A. Appeal No. 67 of 1956, D/- 22.9.1964 (Raj) — **Revers.** AIR 1969 S C 227A, B, C (April).
- (65) I L R (1965) 15 Raj 603, Karam Chand Thappar and Bros. v. Sales Tax Office — **Revers.** AIR 1969 S C 343A, B (May).
- (65) Civil Writ. Petn. No. 401 of 1963, D/- 3-4-1965 (Raj) — **Revers.** AIR 1969 S C 880 (Oct).
- (66) AIR 1966 Raj 45, Jaipur Udyog Ltd. v. I. T. Commr. Delhi — **Revers.** AIR 1969 S C 470A (Dec).

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years.

Owing to late receipt of other Journals the following *supplement* to Comparative Table of A. I. R. = Other Journals is issued.

A. I. R. Supreme Court = Other Journals

AIR 1965 S C		AIR 1967 S C		AIR 1968 S C		AIR 1965 S C		AIR 1967 S C		AIR 1968 S C	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1196	ILR (1965) 17 Assam 97	895	ILR (1966) 18 Assam 433	1776	1968 Punj L J 33	327	(1968) 2 S O J 884 (1969) 1 Mad L J (SC) 1 (1969) 1 Andh W B (SC) 1	1301	ILR (1965) 17 Assam 1	1889	15 Law Rep 483
1301	ILR (1965) 17 Assam 1	908	ILR (1966) 18 Assam 353	1895	(1969) 1 I T J 224 (1969) 1 S O J 19	346	1968 Serv L R 92	1561	ILR (1966) 17 Assam 374	1895	(1969) 1 I T J 224 (1969) 1 S O J 19
1561	ILR (1966) 17 Assam 374	930	1967 Pun L J 114 (1969) 1 S O J 224	1910	(1968) 2 Lab L J 530	353	1968 Serv L R 252	1711	ILR (1965) 17 Assam 359	1910	(1968) 2 Lab L J 530
1711	ILR (1965) 17 Assam 359	1048	ILR (1966) 18 Assam 379			365	ILR (1967) 2 All 863				
	—	1058	ILR (1966) 18 Assam 379			368	1969 Maha L J 610 1969 M P L J 598				
	AIR 1966 S C	1163	1969 S O D 642		AIR 1968 S C	384	ILR (1967) 2 All 850				
AIR	Other Journals	1156	14 Law Rep 156		Other Journals	410	ILR (1968) 1 All 252 (1968) 1 S O R 771 17 Law Rep 93				
1220	ILR (1965) 17 Assam 443	1170	14 Law Rep 172	1	1968 Mad L W (Cri) 79	418	(1968) 2 S O R 652 17 Law Rep 667				
1285	ILR (1966) Mys 868	1189	13 Law Rep 5	5	ILR (1967) 2 All 670	425	17 Law Rep 667				
1571	ILR (1966) Mys 876	1214	1969 M L J (Cri) 330 (1969) 1 S O J 550	42	1968 Mad L W (Cri) 84	432	1969 SCD 31 17 Law Rep 229				
1942	ILR (1966) Mys 969	1233	ILR (1967) 2 All 423	46	ILR (1967) 2 All 759	441	17 Law Rep 76				
1971	1969 Jab L J 414	1260	14 Law Rep 150	90	15 Law Rep 494	445	(1968) 1 S O R 735				
	—	1274	(1969) 1 S O J 116	102	ILR (1967) 2 All 768	450	1969 S O D 736 ILR (1969) 1 All 221				
	AIR 1967 S C	1301	14 Law Rep 165	111	ILR (1967) 2 All 663	453	(1968) 1 S O R 813 (1968) 1 S O R 767				
AIR	Other Journals	1335	(1969) 2 S O J 531 1969 M L J (Cri) 724	114	ILR (1967) 2 All 749	464	1969 Ser L R 330				
442	ILR (1966) 18 Assam 442	1353	14 Law Rep 138	133	15 Law Rep 506	466	ILR (1968) 1 All 230 (1968) 1 S O R 761 (1968) 1 S O R 685 17 Law Rep 543				
459	ILR (1966) 18 Assam 364	1384	ILR (1967) 2 All 408	147	15 Law Rep 468	494	(1968) 1 S O R 721 1968 Serv L R 65				
502	1967 Pun L J 31	1386	ILR (1967) 2 All 412	153	(1969) 2 S O A 67	514	(1969) 2 Lab L J 685				
602	ILR (1966) 18 Assam 457	1408	(1968) 2 SCA 506	158	(1969) 1 Lab L J 509	519	1968 Punj L J 145				
829	ILR (1966) 18 Assam 388	1424	(1968) 2 SCA 502	169	15 Law Rep 459	522	(1968) 1 S O R 821 (1968) 2 S O J 907				
884	ILR (1966) 18 Assam 449	1494	1969 MLJ (Cri) 344 (1969) 1 S O J 559	175	15 Law Rep 477						
		1550	14 Law Rep 99	178	1968 Mad L W (Cri) 65						
		1564	1968 S O D 1109		(1969) 2 S O A 59						
		1588	14 Law Rep 104	209	1969 S O D 1076						
		1590	(1969) 2 S O A 82	222	15 Law Rep 474						
		1599	14 Law Rep 115	227	ILR (1967) 2 All 839						
		1631	ILR (1967) 2 All 741	261	ILR (1967) 2 All 827						
		1747	ILR (1967) 2 All 634	292	1968 Serv L R 119						
			14 Law Rep 126	303	(1969) 1 S O J 392						

AIR 1968 S C		AIR 1968 S C		AIR 1968 S C		AIR 1968 S C	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
534	(1968) 1 S C R 805	960con	1968 Mad L W	1068	(1969) 1 S C J 236	1203con	(1968) 3 S C R 246
533	(1968) 1 S O R 779		(Cri) 188		(1968) 1 Um N P 476	1203	(1968) 2 S C R 833
	(1969) 1 S C J 571		ILR (1968) 1 All 923		(1968) 2 S C R 870		(1968) 1 Um N P 414
554	(1968) 1 S O R 742	963	(1969) 1 S C J 592	1073	(1968) 2 S C R 856		(1969) 1 S C J 33
565	(1968) 1 S C R 661		(1969) 1 Lab L J 523		(1968) 1 Um N P 459	1210	(1968) 1 Um N P 507
564	(1968) 1 S O R 695	985	(1968) 1 Um N P 563		(1969) S C D 686		(1969) 1 S C J 243
	1968 Mad L W		(1968) 2 Mad L J		1969 All L J 1074		71 Pun L R 212
	(Cri) 70		(SO) 134	1076	(1968) 1 Um N P 516		(1968) 2 S C W R 926
	1969 Mah L J 865		(1968) 2 An WR		(1969) 1 Lab L J 520		1968 Serv L R 247
599	(1968) 1 S O R 705		(SO) 134		(1968) 3 S O R 8		(1968) 3 S O R 1
609	1968 Mad L W		(1969) 1 Lab L J 513	1079	(1968) 3 S C R 13	1213	(1968) 2 S C R 745
	(Cri) 78		(1968) 3 S C R 91		(1968) 1 Um N P 521		(1968) 1 Um N P 308
	17 Law Rep 87	991	(1968) 1 Um N P 671	1088	(1968) 3 S C R 111	1218	1968 Jab L J 1025
642	1969 Jab L J 102		(1969) 1 S C J 38		(1968) 1 Um N P 554		(1968) 1 Um N P 769
647	17 Law Rep 534		(1968) 3 S C R 137	1087	(1968) 3 S C R 158		(1968) 2 S C J 924
	1968 Serv L R 344		1969 Mah L J		(1968) 1 Um N P 697		(1968) 3 S C R 214
653	17 Law Rep 5		(Notes) 32	1089	(1968) 1 Um N P 795	1223	(1968) 1 Um N P 760
658	Assam LR (1969)	1002	(1968) 1 Um N P 663		(1969) 1 S C J 51		(1969) 1 Andh
	S O 1		(1969) 1 Lab L J 242		(1968) Serv L R 701		L T 101
662	(1968) 1 S O R 433		(1968) 3 S C R 130	1095	(1968) 3 S C R 234		(1968) 3 S C R 207
	16 Law Rep 736	1005	(1968) 1 Um N P 319		(1968) 3 S C R 198	1227	(1968) 1 Um N P 907
676	1969 Jab L J 46		(1968) 2 Andh		1969 S C D 495		(1969) 1 S O J 128
	1969 Mah L J 226		L T 375	1099	(1968) 1 Um N P 748		(1968) 3 S C R 322
	1959 M P L J 284		(1968) 2 S C R 754		1969 S C D 238	1232	1969 B L J R 669
707	17 Law Rep 38	1012	(1968) 2 S C R 766		(1968) 1 Um N P 813		(1968) 1 Um N P 825
718	(1968) 2 S C J 889		(1968) 2 S C A 636		(1968) 3 S C R 312		(1969) 1 S C J 621
728	ILR (1968) 1 All 864		(1969) 1 Um N P 368	1104	(1968) 1 Um N P 918		(1968) 3 S O R 251
733	17 Law Rep 47		(1968) 2 Mad L J		(1968) 3 S C R 330	1267	(1968) 1 Um N P 546
748	17 Law Rep 204		(SO) 121	1109	(1968) 1 Um N P 944		1968 Mad L W
751	17 Law Rep 199		(1968) 2 An WR		(1968) 2 S C W R 783		(Cri) 205
754	(1969) 1 S C J 217		(SO) 121		1969 S C D 473		71 Bom L R 55
	17 Law Rep 608	1018	(1968) 1 Um N P 651		(1968) 3 S C R 346		1969 M P L J 266
	1968 Serv L R 582		(1968) 3 S C R 119		1969 Ren C R 116		1969 Mah L J 305
	(1969) 1 Lab L J 373		(1968) 2 S C W R 722	1113	(1968) 1 Um N P 955		(1968) 2 Um N P 126
765	16 Law Rep 774	1024	(1968) 1 Um N P 935		(1969) 1 S C W R 158		(1968) 3 S C R 34
	(1968) 2 S C J 914		70 Pun L R 1126		1968 Serv L R 333	1270	(1968) 1 Um N P 929
	1968 Mad L J (Cri) 793		1969 S O D 460		(1968) 3 S C R 363		1969 S C D 89
772	ILR (1968) 2 All 1		(1969) 1 S C J 920	1115	(1968) 2 Um N P 39		1968 Mad L J
794	(1968) 2 S C R 720		(1968) 3 S C R 339		(1968) 3 S C R 336		(Cri) 757
	(1969) 1 Um N P 277	1028	(1968) 2 S C J 901	1119	1969 S C D 101		(1968) 3 S C R 354
	1969 Ren C R 813		(1969) 1 Mad L J		(1968) 2 Um N P 1	1273	1968 Mad L J
800	1968 Serv L R 533		(SO) 6		(1968) 3 S C R 374		(Cri) 730
824	1969 Mah L J 110		(1969) 1 Andh WR	1138	(1969) 1 An WR		1969 All L J 53
832	17 Law Rep 13		(SO) 6		(SO) 51		1969 M P W R 92
850	1969 M P L J 212		(1968) 2 S C W R 848		(SO) 51		1969 B L J R 162
	1969 Mah L J 332		(1968) 2 Um N P 19		(1968) 1 Um N P 587		(1968) 2 Um N P 77
	1968 Serv L R 104		1969 S C D 324		(1969) 1 S C J 423		(1968) 3 S C R 428
	1959 Jab L J 75		(1968) 3 S C R 387		(1968) 3 S C R 41		1969 S C D 335
	17 Law Rep 57	1632	(1969) 1 S C J 180	1165	(1968) 1 Um N P 702	1275	1968 Mad L J
859	(1968) 1 S O J 403		(1968) 1 Um N P 116		(1969) 1 S C J 455		(Cri) 735
870	(1969) 2 S C J 247	1045	(1968) 1 Um N P 434		(1968) 3 S C R 163		(1968) 2 Um N P 84
	16 Law Rep 754		(1968) 2 S C R 892		(1969) 1 S C A 328		(1968) 3 S O R 447
881	17 Law Rep 552	1047	(1969) 1 S C J 59	1179	(1968) 1 Um N P 350		1969 S C D 627
	1969 M P L J 386		(1969) 1 Mad L J		(1968) 2 S C R 778	1276	(1968) 2 S C W R 895
888	(1968) 2 S C R 709		(SO) 11	1182	(1968) 2 S C R 862		(1968) 3 S C R 464
	(1968) 1 Um N P 263		(1969) 1 Andh		(1968) 1 Um N P 498	1281	(1969) 1 S C J 1
	16 Law Rep 805		W R (SO) 11		(1968) 2 S C W R 764		1968 M P W R 2
894	1969 M P L J 381		(1968) 2 Um N P 30	1186	(1968) 2 S C R 823		1969 Mad L J
915	(1968) 2 S C R 897		(1968) 3 S C R 367		(1968) 1 Um N P 400		(Cri) 31
	(1958) 1 Um N P 466	1050	(1968) 2 Um N P 70	1191	(1968) 1 Um N P 576		1968 Mad L W
922	(1968) 1 Um N P 530		(1969) 1 S C A 189		(1968) 3 S C R 102		(Cri) 200
	(1968) 3 S C R 21		(1968) 3 S C R 422	1196	(1968) 2 S C R 740		1969 B L J R 35
929	(1968) 2 S C R 805		(1969) 2 S C W R 176		(1968) Um N P 302		(1968) 2 Um N P 176
	(1968) 1 Um N P 381	1053	1968 Jab L J 1087		1968 S C D 1161		ILR 47 Pat 693
938	1969 Mah L J 155		(1969) 1 S C W R 123		(1968) 2 S C A 531		1969 S C D 584
	1969 M P L J 109		(1968) 2 Um N P 154	1199	(1968) 3 S C R 359		(1968) 3 S C R 525
	ILR (1968) 1 All 871		(1968) 3 S C R 483		(1968) 1 Um N P 961	1286	(1969) 1 S C A 36
	(1968) 2 S C R 572	1058	(1969) 1 S C A 295		1969 S C D 577		(1968) 2 Um N P 196
	(1968) 1 Um N P 82		(1968) 1 Um N P 337	1201	(1969) 1 S C J 259		(1968) 3 S C R 512
956	(1968) 2 S C R 767		1968 All WR		(1968) 2 Um N P 120	1292	1968 Mad L W
	(1968) 1 Um N P 358		(HC) 748		1969 3 S C R 459		(Cri) 190
960	(1968) 2 S C R 842	1064	(1968) 2 S C R 767	1203	(1969) 1 I T J 454		1969 Mad L J
	(1968) 1 Um N P 425		(1968) 2 S C R 812		(1968) 1 Um N P 608		(Cri) 154
			(1968) 1 Um N P 369		(1969) 1 S C A 194		(1969) 1 S C J 133

AIR 1968 S.C.		AIR 1968 S.C.		AIR 1968 S.C.		AIR 1968 S.C.	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1292	con(1968) 3 S C R 563 1969 S O D 546 (1968) 2 Um N P 255 1969 M P W R 420 1969 All L J 467 (1969) 1 Lab L J 549 1969 B L J R 430	1351	1968 All WN(HC) 722 (1968) 2 Um N P 145 (1968) 3 S C R 498 1969 S O D 430 1355 (1968) 2 S O J 951 (1969) 71 Pun L R (D, 1	1393	con(1968) All L J 68 1968 S O D 21 1969 M P W R 89 1969 Mad L W (Cri) 19 (1969) 1 Andh L T 47	1444	con(1968) S O D 1115 1969 Mad L J (Cri) 321 (1969) 1 S C J 510 (1969) 1 S C A 90 1969 All Cri R 49 71 Bom L R 85 (1968) 2 Um N P 763
1293	1969 S C D 11 (1969) Andh L T 41 (1969) 1 S C J 152 1969 Jab L J 53 1968 M P W R 894 (1968) 2 S O W R 874 (1968) 2 Um N P 359 (1968) 3 S C R 639	1358	1969 S C D 118 (1969) 1 S O A 77 (1968) 2 Um N P 350 (1968) 3 S C R 648 71 Bom L R 61 (1969) 1 S O J 279 (1969) 1 S O A 452 (1968) 2 Um N P 441 (1968) 3 S C R 706 1361 (1969) 1 S C J 475 1969 S C D 149 (1969) 1 S C A 87 (1968) 2 Um N P 222 (1968) 3 S C R 566	1395	1969 Maha L J 17 (1968) 2 S C A 619 (1969) 1 S C J 81 71 Bom L R 141 (1968) 2 Um N P 50 (1969) 3 S C R 712 1402 1968 S C D 1097 (1968) 2 S C W R 817 (1968) 1 S C J 715 (1968) 2 Um N P 541 1969 Mad L J (Cr) 348 (1968) 3 S C R 774 1969 All Cri R 257 1969 All W R (HC) 404	1450	1969 Mad L J (Cri) 149 (1969) 1 S C J 105 1969 S O D 342 1455 (1968) 2 S C A 680 (1969) 1 S C J 529 1968 S C D 619 (1968) 2 Um N P 1136
1308	(1968) 2 S C W R 838 (1968) 2 Um N P 106 1969 S C R 450 1969 S C D 414	1364	71 Bom L R 129 (1969) 1 S C A 8 (1968) 2 Um N P 88 (1968) 3 S C R 441 1367 (1968) 2 S C R 819 (1968) 1 Um N P 397 1969 S C D 654 35 F J R 441 19 Fac L R 246 (1969) 2 Lab L J 682	1408	1969 B L J R 107 (1969) 1 S O J 247 (1968) 3 S C A 534 (1968) 2 Um N P 233 1413 (1968) 2 S O J 934 71 Bom L R 48 1969 M P L J 71 (1968) 2 Um N P 634 (1968) 2 S C W R 82 1969 Maha L J 317 (1968) 3 S C R 862 1969 S C D 631	1458	1969 Jab L J 129 1969 M P L J 252 (1969) 1 S C J 516 (1968) 2 Um N P 870 1461 1969 S C D 25 (1969) 1 S C A 145 (1968) 3 S C R 605 (1968) 2 Um N P 316 1969 M P L J 315 1970 Mah L J 6 1464 1968 Mad L J (Cri) 711 (1969) 1 S C A 235 (1968) 2 Um N P 310 (1968) 3 S C R 610 1969 S C D 426 1969 All Cri R 272 1969 All W R (HC) 421
1313	1968 S C D 1148 (1969) 1 S C J 283 1969 Mad L J (Cri) 172 (1969) 1 S C A 247 (1968) 2 Um N P 666	1370	(1968) 2 S C R 887 (1968) 1 Um N P 440 (1968) 2 S O J 581 (1969) 71 Pun L R (D) 42 1969 C I S (I J) 1 (1968) 2 S C W R 893 1969 S C D 166 1968 Serv L R 826 (1968) 1 Um N P 783 (1968) 3 S C R 224 ILR 47 Pat 881	1418	(1969) 1 S O J 262 (1968) 2 Um N P 215 (1968) 3 S C R 551 1419 1969 Ker L J 14 1969 Mad L J (Cri) 327 (1969) 1 S O J 528 (1968) 2 Um N P 938 1422 (1968) 2 S O J 948 1969 Mad L J (Cri) 72 1969 All Cri R 154 1969 All W R (HC) 223 (1968) 2 Um N P 836	1466	(1969) 1 S C J 59 1969 B L J R 97 (1968) 2 Um N P 477 (1968) 3 S C R 742 1969 S C D 659 1468 (1968) 2 S C A 541 (1969) 1 S C J 195 1969 S C D 134 10 Guj L R 138 (1968) 2 Um N P 495 (1968) 3 S C R 746 1969 M L J (Cr) 130 (1968) 2 Um N P 495
1319	(1969) 1 S C J 6 1969 Mad L J (Cri) 36 71 Bom L R 248 1969 S C D 529 (1968) 2 Um N P 523 (1968) 3 S C R 766 1969 A C J 87 71 Bom L R 43 19 9 M P L J 260 1969 Maha L J 299 (1969) 1 S C J 300 1969 Mad L J (Cri) 179 (1968) 2 Um N P 622	1372	(1968) 1 Um N P 783 (1968) 3 S C R 224 ILR 47 Pat 881 1379 (1968) 2 Mad L J (S O) 114 (1968) 2 An W R (S O) 114 (1968) 2 Andh L T 354 (1969) 1 S C A 82 (1968) 3 S C R 195 (1968) 2 Um N P 289 1969 S C D 372 (1969) 1 S C J 265 (1969) 1 S C W R 386 (1968) 3 S C R 631 (1968) 2 Um N P 320 1968 Serv L R 741 (1968) 2 S O J 930 1969 Mad L J (Cri) 3 71 Bom L R 244	1425	(1969) 1 S C J 209 (1969) 1 S C A 51 (1968) 2 Um N P 777 (1969) 1 Mad L J (S O) 21 (1969) 1 An W R (S C) 21 1432 1969 Ker L J 45 (1969) 1 S C J 162 (1968) 2 Um N P 510 (1968) 3 S C R 744 1438 1968 Mad L J (Cri) 723 1969 Mad L W (Cri) 21 71 Pun L R 98 (1968) 2 Um N P 49 (1969) 1 S C A 238 (1968) 3 S C R 404 1969 S C D 385 1444 1969 All W R (HC) 59 1968 Ker L J 932	1475	(1968) 3 S C R 668 (1969) 1 S C J 491 (1968) 2 Um N P 679 1481 (1969) 1 S C A 18 (1969) 1 S C W R 245 10 Guj L R 48 (1969) 1 S C J 271 (1968) 2 Um N P 491 (1968) 3 S C R 692 1489 (1968) 2 Mad L J (S C) 127 (1968) 2 An W R (S C) 127 (1969) 1 S C A 1 (1968) 2 S C W R 918 (1968) 2 Um N P 243 (1968) 3 S C R 542 1969 S C D 352 1495 (1969) 1 S C J 141 (1969) 2 S C A 760 (1968) 2 S C W R 627 18 Fac L R 100 (1968) 3 S C R 614 (1968) 2 Um N P 330
1332	(1969) 1 S C A 29 (1968) 2 S C W R 804 (1968) 2 Mad L J (SC) 109 (1968) 2 An W R (SC) 109 (1968) 2 Um N P 136 (1968) 3 S C R 473	1385	(1969) 1 S C J 265 (1969) 1 S C W R 386 (1968) 3 S C R 631 (1968) 2 Um N P 320 1968 Serv L R 741 (1968) 2 S O J 930 1969 Mad L J (Cri) 3 71 Bom L R 244 (1968) 2 Um N P 413 1969 S C D 364 1969 M P L J 579 (1968) 3 S C R 685 1969 Maha L J 592 1393 1969 B L J R 157 (1968) 2 Um N P 878 (1968) 2 S C J 922 ILR 47 Pat 819 (1968) 2 S C A 552 (1968) 2 S C W R 813 1969 Mad L J (Cri) 1	1438	1968 Mad L J (Cri) 723 1969 Mad L W (Cri) 21 71 Pun L R 98 (1968) 2 Um N P 49 (1969) 1 S C A 238 (1968) 3 S C R 404 1969 S C D 385 1444 1969 All W R (HC) 59 1968 Ker L J 932	1481	(1969) 1 S C A 18 (1969) 1 S C W R 245 10 Guj L R 48 (1969) 1 S C J 271 (1968) 2 Um N P 491 (1968) 3 S C R 692 1489 (1968) 2 Mad L J (S C) 127 (1968) 2 An W R (S C) 127 (1969) 1 S C A 1 (1968) 2 S C W R 918 (1968) 2 Um N P 243 (1968) 3 S C R 542 1969 S C D 352 1495 (1969) 1 S C J 141 (1969) 2 S C A 760 (1968) 2 S C W R 627 18 Fac L R 100 (1968) 3 S C R 614 (1968) 2 Um N P 330
1333	(1969) 1 S C J 168 1969 Mad L J (Cri) 144 71 Bom L R 66 (1968) 2 Um N P 573 (1969) 1 S C A 256 (1968) 3 S C R 821	1390	(1968) 2 Um N P 413 1969 S C D 364 1969 M P L J 579 (1968) 3 S C R 685 1969 Maha L J 592 1393 1969 B L J R 157 (1968) 2 Um N P 878 (1968) 2 S C J 922 ILR 47 Pat 819 (1968) 2 S C A 552 (1968) 2 S C W R 813 1969 Mad L J (Cri) 1	1438	1968 Mad L J (Cri) 723 1969 Mad L W (Cri) 21 71 Pun L R 98 (1968) 2 Um N P 49 (1969) 1 S C A 238 (1968) 3 S C R 404 1969 S C D 385 1444 1969 All W R (HC) 59 1968 Ker L J 932	1481	(1969) 1 S C A 18 (1969) 1 S C W R 245 10 Guj L R 48 (1969) 1 S C J 271 (1968) 2 Um N P 491 (1968) 3 S C R 692 1489 (1968) 2 Mad L J (S C) 127 (1968) 2 An W R (S C) 127 (1969) 1 S C A 1 (1968) 2 S C W R 918 (1968) 2 Um N P 243 (1968) 3 S C R 542 1969 S C D 352 1495 (1969) 1 S C J 141 (1969) 2 S C A 760 (1968) 2 S C W R 627 18 Fac L R 100 (1968) 3 S C R 614 (1968) 2 Um N P 330
1334	(1969) 1 S C A 13 (1968) 2 Um N P 95 (1968) 3 S C R 433	1393	1969 B L J R 157 (1968) 2 Um N P 878 (1968) 2 S C J 922 ILR 47 Pat 819 (1968) 2 S C A 552 (1968) 2 S C W R 813 1969 Mad L J (Cri) 1	1438	1968 Mad L J (Cri) 723 1969 Mad L W (Cri) 21 71 Pun L R 98 (1968) 2 Um N P 49 (1969) 1 S C A 238 (1968) 3 S C R 404 1969 S C D 385 1444 1969 All W R (HC) 59 1968 Ker L J 932	1481	(1969) 1 S C A 18 (1969) 1 S C W R 245 10 Guj L R 48 (1969) 1 S C J 271 (1968) 2 Um N P 491 (1968) 3 S C R 692 1489 (1968) 2 Mad L J (S C) 127 (1968) 2 An W R (S C) 127 (1969) 1 S C A 1 (1968) 2 S C W R 918 (1968) 2 Um N P 243 (1968) 3 S C R 542 1969 S C D 352 1495 (1969) 1 S C J 141 (1969) 2 S C A 760 (1968) 2 S C W R 627 18 Fac L R 100 (1968) 3 S C R 614 (1968) 2 Um N P 330
1318	1968 Mad L W (Cri) 197 1969 Mad L J (Cri) 41 (1968) 1 S O J 11 (1968) 2 Um N P 804						

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1500	(1969) 1 S C A 138 (1969) 1 S C J 313 (1968) 2 Um N P 915	1509	(1968) 2 S C A 535 1969 Mad L J (Cri) 49		(1968) 2 Um N P 501 1969 B L J R 375 ILR 47 Pat 808		1969 Mad L J (Cri) 185 (1968) 2 Um N P 883
1504	73 I T R 44 (1968) 2 Um N P 165 (1968) 3 S C R 481 89 Comp Cas 395		(1969) 1 S C J 68 1969 All L J 377 (1968) 3 S C R 587 1969 M P W R 318	1513	1969 Ker L J 8 (1968) 2 S C A 694 (1969) 1 S C J 309 1969 S C D 126	1517	(1968) 2 S C J 941 1969 Mad L J (Cri) 10 ILR 47 Pat 710 (1968) 2 Um N P 850

A. I. R. 1969 Supreme Court = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [C N 1]	1968 Cur L J 868 17 Fac L R 367 (1969) 1 S C J 306 (1969) 1 S C W R 489 1968 Serv L R 748 (1968) 2 Um N P 757 (1968) 2 S C A 498 1968 S C D 1070	15con	(1968) 70 Pun L R (D) 377 (1968) 2 S C J 945 1969 Ker L J 1 1968 Cur L J 1038 1969 Cri L J 259 1969 Mad L J (Cri) 69 (1968) 2 Um N P 843 1969 S C D 615	33con	(1968) 2 Um N P 401 (1968) 3 S C R 655	59 [C N 17]	1968 Ker L J 659 62 I T R 897 (1968) 2 I T R 724 (1968) 2 S C J 790 (1968) 2 Um N P 794
4 [C N 2]	1969 Jab L J 32 1969 Cri L J 239 1968 M P W R 921 1969 S C D 193 1968 B L J R 965 1969 Mah L J 245 1969 M P L J 200 1969 Mad L J (Cri) 395 (1969) 1 S C J 722 (1968) 2 Um N P 924 (1968) 2 S C W R 668 1968 All L J 1058	17 [C N 7]	(1968) 2 S C J 676 1968 Mad L J (Cri) 668 1969 Cri L J 262 1969 S C D 43 (1968) 3 S C R 189 (1968) 1 Um N P 737	57 [C N 12]	(1969) 1 S C J 100 71 Bom L R 89 10 Guj L R 175 1969 Mah L J 370 (1968) 2 Um N P 727 1969 Ren C R 217	83 [C N 18]	34 F J R 376 1969 Mah L J 391 (1968) 2 S C W R 519 1969 Lab I C 245 1969 Mad L J (Cri) 310 17 Fac L R 370 1968 Ker L J 949 1969 Cri L J 285 (1968) 2 S C A 685 (1969) 2 Lab L J 116 (1969) 1 S C J 252 (1968) 2 Um N P 984 71 Bom L R 93 10 Guj L R 156 1969 S C D 219
7 [C N 3]	(1968) 2 S C W R 468 (1968) 2 Um N P 831 1969 Pat L J R (S C) 100A (1968) 2 S C J 939 (1968) I L R 47 Pat 705 1969 Mad L J (Cri) 7 1969 S C D 693 1968 All Cri R 478 1968 All W R (H C) 767 1969 Cri L J 257 1969 All L J 51 1969 M P W R 90 1969 B L J R 159	23 [C N 8]	(1968) 2 S C J 723 (1969) 1 S C A 62 1969 S C D 291 (1969) 2 S C W R 905 (1968) 2 Um N P 61 (1968) 3 S C R 415	40 [C N 13]	70 I T R 95 (1969) 1 S C J 18 71 Bom L R 52 1969 Mad L J (Cri) 46 (1968) 2 Um N P 931 1969 Cri L J 271 (1969) 1 S C W R 394 (1969) 1 I T J 216 1969 S C D 200 1969 All Cri R 157 1969 All W R (H C) 227 1969 Mah L J (Notes) 31 1969 M P L J (Notes) 59	69 [C N 19]	(1969) 1 S C J 157 10 Guj L R 100 (1968) 2 Um N P 468 (1968) 2 S C W R 794 (1968) 3 S C R 759
9 [C N 4]	(1968) 1 S C W R 742 (1968) 1 Um N P 74 (1969) 1 S C J 176 (1968) 2 S C R 565	27 [C N 9]	70 Pun L R 1078 (1969) 1 S C W R 99 1969 Lab I C 191 (1968) 2 S C J 766 (1968) 2 Um N P 188 (1968) 3 S C R 506 1969 Ren C R 48	43 [C N 14]	1969 S C D 1 35 Cut L T 1 (1968) 2 S C A 629 1969 Cri L J 274 1969 Mad L J (Cri) 398 (1969) 1 S C J 725 (1968) 2 Um N P 962	73 [C N 20]	(1969) 1 S C W R 222 38 Com Cas 760 1968 All W R (H C) 894 (1968) 2 Com L J 265 1969 S C D 157 (1968) 2 Um N P 814 (1968) 2 S C J 851
13 [C N 5]	(1969) 1 S C J 173 71 Pun L R 44 1969 Pan L J 42 1969 S C D 650 (1968) 2 Um N P 1030	30 [C N 10]	1968 All Cri R 362 1968 All W R (H C) 530 1968 B L J R 939 1968 S C D 913 (1969) 1 S C A 263 17 Fac L R 300 (1969) 2 An L T 280 1968 All L J 1008 1969 R3m C R 128 (1968) 2 S C J 955 1969 Lab I C 194 (1969) 1 Lab L J 567 1968 M P W R 885 1969 Cri L J 267 1969 Mad L J (Cri) 75 (1969) 2 Um N P 823	48 [C N 15]	(1969) 1 S C J 110 (1969) 1 S C A 197 (1968) 2 Um N P 1019	78 [C N 21]	22 S T C 416 1969 Jab L J 1 1969 M P L J 1 1969 Mah L J 1 1969 M P W R 200 (1969) 1 S C J 925 (1968) 2 Um N P 370 (1968) 2 S C A 479 (1968) 3 S C R 662 (1968) 2 S C W R 674
15 [C N 6]	(1969) 2 S C W R 455 1969 (S.C.) Indexes 8.	33 [C N 11]	70 Pun L R 1082 (1969) 1 S C J 479	53 [C N 16]	1969 S C J 55 1969 Mad L J (Cri) 137 (1969) 1 S C J 202 (1969) 1 S C W R 196 1969 M P W R 61 1969 All L J 1 1969 Cri L J 279 1969 B L J R 90 (1968) 2 Um N P 560 (1968) 3 S C R 810	90 [C N 22]	(1968) 2 S C A 615 34 F J R 393 17 Fac L R 311 (1968) 2 Um N P 999

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
90con	1969 S C D 172 (1969) 1 Lab L J 557 (1968) 2 S C W R 857 (1968) 35 Cnt L T 223 (1969) 1 S C J 671 1968 Lab I C 90	177 [C N 32] 1968 Pat L J R (S C) 13A (1968) 2 S C J 871 1969 B L J R 1 (1969) 1 S C W R 118 (1968) 2 S C R 881 (1969) 1 S C A 72 (1968) 1 Um N P 490	235 [C N 43] 1969 Lab I C 322 35 F J R 139 18 Fac L R 159 (1969) 1 Lab L J 770 (1969) 2 S C J 222 (1969) 1 Um N P 140	276 [C N 53] (1968) 2 S C W R 621 18 Fac L R 10 1969 Lab I C 458 (1969) 1 S C A 439 1969 Mah L J 407 1969 Ker L J 277 (1969) 1 Lab L J 775 35 F J R 353 (1969) 1 Um N P 210			
101 [C N 23] (1968) 2 S C A 666 (1969) 1 S C J 738 (1968) 2 Um N P 1051		180 [C N 33] (1969) 1 S C A 48 1969 Lab I C 310 18 Fac L R 125 (1968) 2 S C W R 914 (1968) Serv L R 730 (1968) 2 Um N P 554 (1968) 3 S C R 857	239 [C N 44] (1969) 1 S C A 288 10 Guj L R 349 (1969) 1 Um N P 185	285 [C N 54] 71 I T R 422 (1969) 1 I T J 332 (1969) 1 S C J 483 1969 Ker L J 340 (1969) 1 Um N P 517			
110 [C N 24] 1969 S C D 72 (1969) 1 Andh L T 62 (1968) 2 Um N P 737 (1969) 2 S C J 31 (1969) 2 Mad L J (S C) 15 (1969) 2 Andh W R (S C) 15 (1969) 2 S C A 94		182 [C N 34] (1969) 1 S C W R 283 35 F J R 130 1969 Lab I C 313 (1969) 1 S C A 149 (1969) 1 S C J 519 18 Fac L R 189 (1968) 2 Um N P 858 (1969) 1 Lab L J 713	244 [C N 45] 1968 Pat L J R (S C) 68A 1969 B L J R 186 (1969) 1 S C J 748 (1969) 1 S C A 183 (1968) 2 Um N P 1087	288 [C N 55] (1969) 1 S C J 388 (1969) 1 S C A 175 (1969) 71 Pun L R (D) 285 (1969) 1 Um N P 858			
118 [C N 25] (1968) 2 S C A 597 (1969) 1 S C J 73 (1969) 1 S C W R 182 (1968) 2 Um N P 272 (1968) 3 S C R 575 1968 S C D 1120 1969 Lab I C 100 17 Fac L R 411 1969 Serv L R 6		189 [C N 35] 1969 Cri L J 401 (1969) 1 S C W R 377 1969 Mad L J (Cri) 404 (1969) 1 S C J 533 (1968) 2 Um N P 1070	253 [C N 46] (1968) 2 S C W R 393 (1969) 1 S C J 347 1969 M P W R 260 1969 All L J 290 1969 B L J R 313 1969 Mad L J (Cri) 209 (1968) 2 Um N P 1209	292 [C N 56] 69 I T R 675 (1968) 2 I T J 401 (1968) 2 S C J 469 (1968) 2 S C R 731 (1968) 1 Um P N 290			
125 [C N 26] (1969) 1 S C J 97 1969 S C D 232 (1968) 2 Um N P 533 1969 Lab I C 107 (1969) 3 S C R 784		193 [C N 36] (1969) 1 S C J 340 1969 M P W R 262 1969 All L J 323 1969 B L J R 315 (1968) 2 Um N P 1126	255 [C N 47] (1969) 1 S C W R 320 1969 Jab L J 495 (1969) 1 S C J 344 1969 B L J R 198 1969 All L J 159 1969 M P W R 188 1969 Ker L J 212 1969 Mah L J 367 1969 M P L J 346 (1968) 2 Um N P 1203	297 [C N 57] (1968) 2 S C W R 381 1968 Pat L J R (S C) 92A 39 Com Cas 135 (1969) 1 S C J 380 (1969) 1 S C A 269 1969 B L J R 437 1969 M P W R 418 1969 All L J 475 (1969) 1 Um N P 234			
128 [C N 27] (1968) 2 S C W R 73 71 Bom L R 236 1968 Mah L J 599 (1969) 1 S C J 731 1968 M P L J 607 (1969) 2 Um N P 945 1968 S C D 866 (1969) 1 S C A 99 1968 Ker L J 955		198 [C N 37] (1968) 2 S C W R 117 (1969) 1 S C J 543 1969 Ker L T 290 (1968) 2 Um N P 1113	258 [C N 48] (1968) 2 S C W R 109 1968 Pat L J R (S C) 102A 1969 Cri L J 520 1969 All L J 394 1969 M P W R 362 1969 B L J R 392 (1969) 1 S C A 204 (1968) 2 Um N P 1172	299 [C N 58] 71 I T R 459 (1969) 1 I T J 381 (1969) 1 S C J 507 (1969) 1 Um N P 811			
135 [C N 28] (1968) 2 S C A 578 (1968) 2 Um N P 697 (1969) 2 S C J 18		204 [C N 38] 1969 B L J R 270 (1969) 1 S C J 538 (1968) 2 Um N P 1135	262 [C N 49] (1969) 1 S C J 349 (1969) 1 S C A 126 71 Pun L R 370 (1968) 2 Um N P 1214	302 [C N 59] (1969) 1 S C A 157 (1969) 1 S C J 335 (1968) 2 Um N P 1104			
147 [C N 29] 22 S T C 376 (1969) 1 S C W R 1 (1969) 1 S C J 318 (1969) 1 Andh W R (S C) 28 (1968) 1 Mad L J (S C) 28 (1968) 2 Um N P 584 (1968) 2 S C A 555 (1968) 3 S C R 829		209 [C N 39] (1969) 1 S C W R 277 71 I T R 296 (1969) 1 T J 280 (1969) 1 S C J 471 (1969) 1 S C A 134 (1969) 1 Um N P 126	267 [C N 50] (1969) 1 S C J 364 10 Guj L R 366 (1969) 1 S C A 283 (1969) 1 Um N P 196	308 [C N 60] 1968 Pat L J R (S C) 109A 1969 Lab I C 467 55 F J R 106 (1969) 1 Lab L J 235 (1969) 1 S C A 303 18 Fac L R 164 (1969) 1 Um N P 148 (1969) 2 S C J 235			
164 [C N 30] 1968 B L J R 978 (1969) 1 S C J 91 (1968) 2 Um N P 483 (1968) 3 S C R 734		212 [C N 40] (1969) 1 S C W R 294 1969 Lab I C 319 (1968) 2 Um N P 1090	270 [C N 51] (1968) 2 S C W R 552 (1969) 1 S C J 370 10 Guj L R 358 71 Bom L R 449 1969 Mah L J 700 (1969) 1 Um N P 227	313 [C N 61] (1968) 2 S C W R 357 39 Com Cas 114 (1969) 1 S C J 367 (1969) 1 Um N P 203 1969 All L J 344 1969 M P L J 555 1969 Jab L J 460 1969 Mah L J 417 1969 M P W R 316 1969 B L J R 358			
168 [C N 31] (1968) 2 S C W R 735 (1968) 2 S C A 607 (1969) 1 S C J 290 71 Bom L R 148 10 Guj L R 117 (1968) 2 Um N P 641		227 [C N 42] (1969) 1 S C J 355 (1969) 1 S C A 272 (1969) 1 Um N P 1	273 [C N 52] (1969) 1 S C J 757 (1969) 1 Um N P 44	316 [C N 62] (1969) 1 S C J 373 (1969) 1 S C W R 450			

A I R	Other Journals	A I R	Other Journals	A I R	Other Journals	A I R	Other Journals
316con	1969 B L J R 426 (1969) 1 Um N P 510	373 [C N 73]	10 Guj L R 408 1969 Mad L J (Cri) 466 (1969) 1 S O J 862 1969 Cri L J 649 (1969) 1 Um N P 20 (1969) 2 S C A 222	422 [C N 83]	1969 B L J R 731 (1969) 1 S C O 347 1969 All W R (H O) 549 1969 Mad L J (Cri) 456 (1969) 1 S C W R 1149 (1969) 1 S O J 844 1969 Cri L J 671 (1969) 1 S C A 137 1969 All L J 638 1969 M P W R 590 1969 All Cri R 349	483con	71 Pun L R 494 1969 Mad L J (Cri) 476 (1969) 1 S C J 872 1969 Cri L J 803 (1969) 2 S C A 75
319 [C N 63]	71 I T R 457 (1969) 1 I T J 376 (1969) 1 S O J 503 (1969) 1 Um N P 762	378 [C N 74]	1968 Ker L T 649 (1969) 1 S C A 371 (1969) 1 S C W R 633 (1969) 1 S C J 691 1969 Ker L J 436 (1969) 1 Um N P 264	430 [C N 84]	1968 Ker L T 794 (1969) 1 S C W R 624 71 I T R 815 (1969) 1 S O J 772 (1969) 1 I T J 453 (1969) 1 Um N P 823 (1969) 2 S C A 264	488 [C N 95]	(1969) 1 S C W R 653 (1969) 1 S O J 682 (1969) 71 Pun L R (D) 232 (1969) 2 S C A 209
323 [C N 64]	1969 Cri L J 525 (1969) 1 S C A 189 (1969) 1 S C J 900 (1968) 2 Um N P 527	381 [C N 75]	(1969) 1 S C W R 325 (1969) 1 S O J 857 1969 Mad L J (Cri) 471 1969 Cri L J 654 (1969) 2 S C A 18 (1969) 1 Um N P 875	435 [C N 85]	(1969) 1 S C W R 731 (1969) 1 S C J 760 (1969) 1 M L J (S C) 90 (1969) 1 Andh W R (S C) 90 1969 Ren C R 715	493 [C N 96]	(1969) 1 S O W R 230 (1969) 1 S C O 188 (1969) 1 S C J 706 (1969) 1 An W R (S C) 86 (1969) 1 Mad L J (S C) 86 (1969) 2 S C A 246
329 [C N 65]	(1969) 1 S C J 805 (1969) 1 S C A 211 71 Bom L R 438 (1969) 1 Um N P 472 1969 Mah L J 890	386 [C N 76]	(1969) 1 S C W R 1034 (1969) 1 S C J 764 (1969) 71 Pun L R (D) 262 (1969) 2 S C A 165	439 [C N 86]	10 Guj L R 421 1969 Mah L J 513 (1969) 1 S O J 792 (1969) 1 Um N P 449 71 Bom L R 681 (1969) 2 S C A 180	496 [C N 97]	72 I T R 197 1969 M P L J 797 (1969) 1 S C W R 967 1969 Jab L J 520 1969 M P W R 349 (1969) 1 I T J 889 (1969) 2 S C J 177 (1969) 1 Um N P 334 1969 Mah L J 855
340 [C N 66]	71 I T R 417 1969 C I S (J J) 4 (1969) 1 S C J 499 71 Pun L R 485 (1969) 1 I T J 371 (1969) 1 Um N P 503	392 [C N 77]	1969 Pun L J 165 (1969) 11 S O J 831	447 [C N 87]	(1969) 2 S C J 72 (1969) 2 Um N P 1182 (1969) 2 S C A 51	499 [C N 98]	(1969) 1 S C W R 1004 (1969) 1 S C J 910 (1969) 23 S T O 385 (1969) 1 S O A 569 1969 All L J 736 (1969) 1 Um N P 311
343 [C N 67]	23 S T C 210 1969 Ker L J 314 (1969) 2 S C J 78 (1969) 1 Um N P 547	395 [C N 78]	1969 Jab L J 441 (1969) 1 S O J 786 (1969) 2 S C A 43 1969 B L J R 466 1967 All L J 462 1969 M P W R 428 1969 M P L J 459 (1969) 1 Um N P 50	453 [C N 88]	(1969) 1 S C C 1 (1969) 1 S C J 854 (1969) 1 S C A 703	501 [C N 99]	(1969) 1 S C W R 1021 (1969) 1 I T J 533 (1969) 1 Com L J 303 72 I T R 291 (1969) 1 Um N P 594 (1969) 2 S C J 463
348 [C N 68]	23 S T C 173 (1969) 1 S C J 376 (1969) 1 Andh W R (S C) 47 (1969) 1 Mad L J (S C) 47 (1969) 1 Um N P 432	401 [C N 79]	(1968) 2 S C W R 461 1969 Cri L J 659 1969 All L J 389 (1969) 2 S C A 236 1969 Jab L J 479 1969 B L J R 388 (1968) 1 S C J 822 1969 M P W R 358 1969 Mad L J (Cri) 442 1969 Mah L J 527 1969 M P L J 465	460 [C N 89]	(1969) 1 I T J 491 72 I T R 408 (1969) 1 S O J 666 (1969) 1 Um N P 800	504 [C N 100]	(1969) 1 S C C 255 1969 Ker L J 413 (1969) 1 S C A 588 (1969) 2 S C J 313
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355 [C N 70]	1969 Cri L J 645 1969 Cur L J 116 (1969) 1 S C J 383 (1969) 1 Um N P 537 1969 Mad L J (Cri) 212 71 Pun L R 381 (1969) 1 S C A 228 1969 All Cri R 224 1969 All W R (H C) 351	409 [C N 81]	71 I T R 806 (1969) 1 I T J 482 (1969) 1 S C J 659 (1969) 1 Um N P 775	470 [C N 91]	71 I T R 799 (1969) 1 I T J 514 (1969) 1 S C J 600	530 [C N 102]	(1969) 2 S C W R 161 (1969) 2 S C J 181 17 Fac L R 218 (1969) 2 Mad L J (S C) 38 35 F J R 162 (1969) 2 An W R (S C) 39 (1969) 1 S C A 375 (1969) 1 Lab L J 719 1969 Lab I C 854 (1969) 2 Um N P 1147
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				483 [C N 94]	(1969) 1 S C W R 692		

A I R Other Journals

- 543 [CN 103]
72 I T R 203
(1969) 1 I T J 554
(1969) 1 Um N P 360
- 549 [CN 104]
23 S T O 380
(1969) 1 S C W R
1013
1969 Lab L J 485
1969 M P L J 493
1969 M P W R 603
(1969) 2 S O J 226
(1969) 1 Um N P 562
- 552 [CN 105]
(1968) 2 S O W R 351
(1969) 2 S O J 105
(1969) 2 Mad L J
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(1969) 1 Um N P 37
- 556 [CN 106]
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(1969) 1 S O J 878
(1969) 1 S O A 434
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1969 B L J R 690
1969 M P W R 531
(1969) 1 Um N P 109
- 560 [CN 107]
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(1969) 1 S O J 896
(1969) 1 Um N P 175
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- 563 [CN 108]
(1969) 1 S O J 687
(1969) 1 S O W R 999
(1969) 1 An W R
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(1969) 1 M L J
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(1969) 1 Um N P 239
(1969) 2 S O A 255
- 566 [CN 109]
(1969) 1 S O W R 993
(1969) 1 S O J 906
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(1969) 1 Um N P 282
(1969) 2 S C A 231
- 569 [CN 110]
(1969) 1 S O W R
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(1969) 2 S O J 102
(1969) 2 Mad L J
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- 572 [CN 111]
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(1969) 1 I T J 561
(1969) 1 S O J 777
(1969) 1 Um N P 729
- 575 [CN 112]
(1968) 2 S O W R 489
1969 Cur L J 69
(1969) 1 S O J 912
(1969) 1 S O A 549
(1969) 1 Um N P 720
- 579 [CN 113]
(1968) 2 S O W R 448
1969 M P W R 344
1969 Jab L J 514
1969 M P L J 425
(1969) 2 S O J 97

A I R Other Journals

- 579con(1969) 1 Um N P 751
- 583 [CN 114]
(1969) 1 S O J 694
1969 B L J R 812
1969 M P L R 458
(1969) 1 Um N P 793
- 586 [CN 115]
(1969) 2 S O J 243
(1969) 2 S O A 1
(1969) 1 Um N P 866
- 590 [CN 116]
(1969) 1 S O W R 550
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18 Fac L R 284
1969 B L J R 821
(1969) 1 Lab L J 762
1969 M P L J 820
1969 Lab I O 867
(1969) 1 S O A 555
(1969) 2 S O J 108
1969 M P L R 622
- 597 [CN 117]
(1969) 1 S O J 916
(1969) 1 S O O 20
(1969) 2 S C A 7
- 600 [CN 118]
(1969) 1 S O W R 77
1969 S O D 661
(1969) 1 S O C 200
(1969) 2 S O J 93
(1969) 2 S O A 118
- 604 [CN 119]
(1969) 1 S O J 818
(1969) 1 S O A 714
(1969) 1 Um N P 834
- 609 [CN 120]
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(1969) 1 I T J 846
(1969) 2 S O J 61
(1969) 1 Um N P 133
- 612 [CN 121]
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(1969) 2 S O J 160
18 Fac L R 336
(1969) 2 I T J 57
(1969) 1 S C A 393
39 Com Cas 410
(1969) 1 Lab L J 785
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(1969) 2 Com L J 1
(1969) Lab I O 395
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- 630 [CN 122]
(1969) 1 S O C 320
- 634 [CN 123]
(1969) 1 S O C 509
(1969) 1 S C A 461
(1969) 2 S O J 322
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(1969) 2 S O W R 366
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- 655 [CN 124]
(1969) 1 S O C 68
(1969) 2 S O J 114
- 663 [CN 125]
(1969) 2 S O J 193
(1969) 2 S C A 12
(1969) 1 Um N P 256
- 667 [CN 126]
(1969) 1 S O W R 91
72 I T R 617
(1969) 1 I T J 851

A I R Other Journals

- 667con(1969) 2 S C J 64
(1961) 1 Um N P 711
(1969) 2 S C A 271
- 671 [CN 127]
(1969) 1 S O C 52
(1969) 2 S O J 82
- 674 [CN 128]
(1968) 2 S O W R 270
(1969) 1 S C A 429
1969 All L J 570
1969 M P W R 528
1969 B L J R 665
(1969) 2 S O J 89
(1969) 1 Um N P 29
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- 677 [CN 129]
(1969) 2 S O J 198
(1969) 1 Um N P 247
- 682 [CN 130]
(1968) 2 S O W R 417
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(1969) 1 I T J 709
(1969) 1 S O J 882
(1969) 1 S O A 563
(1969) 1 Um N P 318
- 686 [CN 131]
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1969 Mad L J
(Cri) 484
1969 Cri L J 1057
1969 All W R
(HO) 497
1969 All Cri R 325
(1969) 2 S O A 269
- 689 [CN 132]
(1969) 1 S O J 939
1969 Mad L J
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1969 Cri L J 1081
1969 All L J 685
1969 All Cri R 312
1969 All W R
(HO) 473
1969 M P W R 561
1969 B L J R 728
(1969) 2 S O A 216
- 692 [CN 133]
(1969) 1 S O C 27
(1969) 2 S O J 208
(1969) 2 Mad L J
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(1969) 2 Andh W R
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- 701 [CN 134]
(1969) 1 I T J 732
72 I T R 787
(1969) 1 S O J 890
(1969) 2 Mad L J
(SO) 9
(1969) 2 Andh W R
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1969 Mad L J
(Cri) 547
- 707 [CN 135]
1969 Fat L J R
(SO) 21A
(1969) 1 Com L J 350
(1969) 1 S O C 325
(1969) 2 S O J 1
(1969) 1 S O A 720

A I R Other Journals

- 707con39 Com Cas 781
(1969) 2 S O A 157
- 721 [CN 136]
(1969) 1 S O J 945
1969 Mad L J
(Cri) 488
(1969) 1 S O C 167
1969 Mah L J 597
(1969) 1 S O A 629
1969 Cri L J 1069
71 Bom L R 696
- 734 [CN 137]
1969 Cur L J 185
(1969) 1 S O C 372
(1969) 2 S O J 138
- 740 [CN 138]
(1969) 1 I T J 728
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72 I T R 801
(1969) 1 S O J 888
(1969) 1 Um N P 736
- 744 [CN 139]
(1969) 1 S O C 466
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(1969) 2 S O J 343
- 751 [CN 140]
(1969) 1 S O C 206
(1969) 2 S O J 147
(1969) 2 S O W R 318
- 762 [CN 141]
(1969) 1 S O W R 353
(1969) 1 S O C 225
1969 Serv L R 439
(1969) 2 S O J 86
1969 Lab I O 1146
19 Fac L R 67
- 764 [CN 142]
(1969) 1 S O A 421
(1969) 2 S O J 132
(1969) 2 Mad L J
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(1969) 1 Um N P 96
- 770 [CN 143]
(1969) 1 S O C 423
(1969) 2 S O J 217
10 Guj L R 1004
- 775 [CN 144]
(1969) 1 S O C 429
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(1969) 2 S O J 68
- 778 [CN 145]
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(1969) 1 I T J 838
(1969) 2 S O J 54
(1969) 1 S O A 572
(1969) 2 S O W R 309
(1969) 1 Um N P 346
- 783 [CN 146]
(1969) 1 S O A 491
(1969) 2 S O J 467
- 812 [CN 147]
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(1969) 1 Um N P 271
- 817 [CN 148]
(1969) 2 S O J 203
(1969) 1 Um N P 607
- 823 [CN 149]
(1969) 2 S O J 123

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1118	[CN 204] (1969) 1 S O C 804 1969 S O D 929 1969 All L J 988 1969 M P W R 877 (1969) 2 S O C J 794	1171	[CN 216] (1969) 1 S O C 440 (1969) 2 S O W R 86 (1969) Cri L J 1559 (1969) 2 S O A 276 (1970) 1 S O C J 39	1256	con (1969) 1 S O C 798 (1969) 2 S O A 187 1969 M P W R 981	1302	con 1969 Lab I O 1534 (1969) 2 S O C J 779
1122	[CN 205] 1969 Ker L T 215 (1969) 1 S O C 671 74 I T R 1 (1969) 2 I T J 526 (1969) 2 S O C J 701	1183	[CN 217] (1969) 1 S O W R 944 74 I T R 62 (1969) 2 I T J 623 (1969) 2 S O C J 733	1262	[CN 229] (1969) 2 S O C 84 74 I T R 72 (1969) 2 I T J 580 (1969) 2 S O C J 716	1308	[CN 240] (1969) 1 S O W R 593 (1969) 1 S O C 585 (1969) S O D 505 19 Fac L R 140 39 Com Cas 889 (1969) 2 S O A 202 36 F J R 191 (1969) 2 Lab L J 749
1126	[CN 206] (1969) 1 S O C 653 (1969) 2 S O C J 648	1187	[CN 218] (1969) 1 S O C 699 1969 Ren O R 364 (1969) 2 S O C J 661	1267	[CN 230] (1969) 1 S O W R 758 (1969) 1 S O C 869	1311	[CN 241] (1969) 1 S O C 828 1969 S O D 908
1130	[CN 207] (1969) 1 S O W R 569 (1969) 1 S O C 733 1969 S O D 452 (1969) 2 S O C J 654	1190	[CN 219] (1969) 1 S O C 392 10 Guj L R 829 (1969) 2 S O C J 674 1969 Mah L J 958	1270	[CN 231] (1969) 2 S O C 39 (1969) 2 S O C J 798	1316	[CN 242] (1969) 1 S O C 497 (1970) 1 S O C J 63
1133	[CN 208] (1969) 1 S O W R 880 (1969) 2 S O C 756	1196	[CN 220] (1969) 2 S O C 139 10 Guj L R 919	1273	[CN 232] (1969) 1 S O W R 832 71 Pun L R 525 (1969) 1 S O C 835 1969 Ren O R 343 (1969) 2 S O C J 737	1320	[CN 243] 1969 Um N P 570
1144	[CN 209] (1969) 1 S O C 813 1969 S O D 757 (1969) 2 S O C J 527 71 Pun L R 996	1201	[CN 221] (1969) 2 S O C J 598	1276	[CN 233] (1969) 1 S O C 472 1969 M P L J 421 1969 Jab L J 837 24 S T C 343 (1969) 2 S O A 175 1969 M P W R 969 (1970) 1 S O C J 68	1330	[CN 244] (1969) 2 S O C 33 (1969) 2 S O C J 825
1147	[CN 210] (1969) 1 S O C 573 (1969) 2 S O A 129 (1969) 2 M L J (SC) 107 (1969) 2 Andh W R (SC) 107 (1969) 2 S O C J 784	1225	[CN 222] (1969) 1 S O C 781 (1969) 2 S O C J 837 10 Guj L R 1036	1280	[CN 234] (1969) 2 S O C 13 (1969) 2 S O A 147 (1969) Lab I O 1526 (1969) 2 Lab L J 673 19 Fac L R 375	1335	[CN 245] (1969) 1 S O C 878 18 Fac L R 373 1969 Lab I O 1538 36 F J R 177 (1969) 2 Lab L J 651 (1970) 1 S O C J 1
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1165	[CN 214] 1969 Cur L J 348 (1969) 1 S O C 724 1969 Ren O R 386 (1969) 2 S O C J 665	1245	[CN 226] (1969) 1 S O C 567 (1969) 2 S O W R 150 24 S T C 349 (1970) 1 S O C J 72	1297	[CN 238] (1969) 1 S O W R 1106 (1969) 2 S O C 187 10 Guj L R 992	1355	[CN 249] (1969) 2 S O C 91
1167	[CN 215] (1969) 1 S O W R 768 (1969) 1 S O C 709	1249	[CN 227] (1969) 1 S O W R 1164 (1969) 2 S O C 149 35 Cut L T 911 1969 S O D 785 (1969) 2 S O A 192 (1969) Lab I O 1520	1302	[CN 239] 1969 Serv L R 268 (1969) 1 S O W R 868 (1969) 1 S O C 804 10 Guj L R 851	1359	[CN 250] (1969) 1 S O W R 985 (1969) 2 S O C 79 (1969) 2 M L J (SC) 105 (1969) 2 Andh W R (SC) 105 (1969) 2 S O C J 743
		1256	[CN 228] (1969) 1 S O W R 803				

Other Journals = All India Reporter

(1968) 1 S C R (April 1968) S C R = A I R				(1968) 3 S C R (Sept to Dec 1968)				(1968) 3 S C R				(1969) 1 S C J				(1969) 1 S C J			
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661 " "	565			8 " "	1079			734 1969	"	164		168 " "	"	13		706 " "	"	"	493
685 " "	497			13 " "	922			742 1968	"	1466		173 1969	"	9		709 " "	"	"	417
696 " "	594			21 " "	1267			746 " "	"	1468		176 " "	"	1032		715 1968	"	"	1402
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735 " "	554			102 " "	1083			784 1969	"	125		209 1968	"	754		738 " "	"	"	101
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761 " "	464			119 " "	1002			810 " "	"	53		224 1967	"	1068		757 " "	"	"	273
787 " "	413			130 " "	991			821 1968	"	1339		236 1968	"	1210		760 " "	"	"	435
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505 1968	"	829		251 " "	"	1099		469 1969	"	292		290 1969	"	1		822 " "	"	"	401
515 " "	"	829		312 " "	"	1227		871 " "	"	177		300 1968	"	1323		827 " "	"	"	370
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565 1969	"	9		363 " "	"	1047		922 " "	"	1393		344 " "	"	253		872 " "	"	"	483
572 1968	"	954		367 " "	"	119		924 " "	"	1218		347 " "	"	262		878 " "	"	"	556
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589 " "	"	1125		387 " "	"	1115		934 " "	"	1413		355 " "	"	267		886 " "	"	"	740
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674 " "	"	816		447 " "	"	1308						409 " "	"	303		920 1968	"	"	78
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709 " "	"	888		464 " "	"	1332						425 " "	"	1138		942 " "	"	"	724
720 " "	"	794		473 " "	"	1501						455 " "	"	1165		945 " "	"	"	
731 1969	"	292		481 " "	"	1053						471 1969	"	209					
740 1968	"	1196		489 " "	"	1351						475 1968	"	1361					
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786 " "	"	1012		534 " "	"	1489						499 1969	"	340					
787 " "	"	956		542 " "	"	1416						503 " "	"	319					
805 " "	"	929		551 " "	"	1361						507 " "	"	299					
812 " "	"	1064		556 " "	"	1292						510 1968	"	1444					
819 " "	"	1367		563 " "	"	118						516 " "	"	1468					
823 " "	"	1186		575 1969	"	1509						519 1969	"	182					
833 " "	"	1205		587 1968	"	1379						526 1968	"	1419					
842 " "	"	960		595 " "	"	1461						529 " "	"	1455					
848 " "	"	1328		605 " "	"	1464						533 1969	"	189					
856 " "	"	1073		610 " "	"	1495						538 " "	"	204					
862 " "	"	1182		614 " "	"	1336						543 " "	"	198					
870 " "	"	1068		623 " "	"	1385						550 1967	"	1214					
881 1969	"	177		631 " "	"	1299						559 " "	"	1494					
887 1968	"	1370		639 " "	"	1355						571 1968	"	93					
892 " "	"	1045		648 " "	"	1355						592 " "	"	1232					
897 " "	"	915		655 1969	"	78						621 " "	"	408					
899 " "	"			662 " "	"	1390						659 1969	"	666					
899 " "	"			665 1968	"	1481						666 " "	"	671					
899 " "	"			692 " "	"	1358						682 " "	"	682					
899 " "	"			706 " "	"	1395						687 " "	"	687					
899 " "	"			712 " "	"							694 " "	"	694					

(1969) 2 S C J
(July to Dec 1969)

SCR	AIR	SO	707
1 1969	"	707	
18 " "	"	135	
31 " "	"	110	
41 " "	"	215	
54 " "	"	778	
60 " "	"	609	
63 " "	"	667	
64 " "	"	775	
68 " "	"	447	
72 " "	"	343	
78 " "	"	671	
82 " "	"	762	
86 " "	"	674	
89 " "	"	600	
93 " "	"	579	
97 " "	"	569	
102 " "	"	552	
105 " "	"	590	
109 " "	"	655	
114 " "	"	823	
123 " "	"	764	
132 " "	"	734	

(1969) 2 S C J				(1969) 2 S C J				1969 S C D				(1968) 2 SCWR				(1969) 1 SCWR			
SCJ	AIR	SO		SCJ	AIR	SO		SCD	AIR	SO		SCWR	AIR	SO		SCWR	AIR	SO	
147	1969	761		689	1969	1349		134	1968	1468		351	1969	552		593	1969	133	
160	"	612		691	1970	5		149	"	1361		357	"	313		615	"	42	
177	"	496		693	1969	1234		167	1969	73		373	"	556		624	"	43	
181	"	530		698	"	1270		166	1968	1370		381	"	297		633	"	37	
193	"	663		701	"	1122		172	1969	90		393	"	253		639	"	43	
198	"	677		705	"	940		193	"	4		417	"	682		653	"	48	
203	"	817		710	"	1160		209	"	40		448	"	579		680	"	105	
203	"	692		716	"	1262		218	"	63		461	"	401		692	"	48	
217	"	770		721	"	1094		232	"	125		472	"	893		701	"	474	
222	"	235		727	1970	14		238	1963	1099		489	"	575		721	"	893	
226	"	549		733	1969	1183		291	1969	23		512	"	270		731	"	433	
235	"	306		737	"	1273		324	1968	1028		621	"	276		739	"	1094	
243	"	586		740	"	1294		335	"	1273		735	"	168		748	"	971	
247	1968	870		743	"	1359		342	"	1450		764	1968	1182		758	"	1267	
259	1969	360		745	1970	1		362	"	1489		783	"	1109		768	"	1167	
270	"	880		751	1969	956		364	"	1390		794	1969	69		716	1970	6	
275	"	992		756	1970	58		372	"	1379		804	1968	1332		792	1969	1349	
283	"	998		759	1969	1034		385	"	1438		813	"	1393		803	"	1258	
290	"	513		773	"	1114		397	1969	1081		817	"	1402		832	"	1275	
306	"	1014		779	"	1302		414	1968	1308		828	"	1495		861	1970	109	
313	"	504		784	"	1147		426	1969	1464		838	"	1308		869	1969	1502	
322	"	634		791	"	1238		430	1968	1351		848	"	1028		880	"	1133	
343	"	744		784	"	1118		452	1969	1150		857	1969	90		928	"	1289	
351	"	851		798	"	1078		460	1968	1024		874	1963	1299		944	"	1183	
360	"	864		802	"	953		468	1969	938		882	1968	1413		958	1970	1	
365	"	884		806	1970	66		473	1968	1109		889	"	1370		965	1969	1359	
370	"	1004		810	1969	1291		483	1969	1344		895	"	1276		968	"	1294	
381	"	1028		813	"	1288		495	1968	1095		905	1969	23		978	1970	109	
388	"	835		818	1970	87		505	1969	1306		914	"	180		987	1969	493	
393	"	862		825	1969	1330		515	"	956		918	1968	1489		993	"	565	
396	"	843		831	"	1344		529	1968	1319		928	"	1210		999	"	563	
406	"	831		837	"	1225		546	"	1292						1004	"	499	
409	"	903		846	1970	21		561	1969	600						1008	"	569	
423	"	97		853	"	30		577	1968	1199						1013	"	542	
429	"	932		858	"	27		584	"	1281						1021	"	502	
436	"	888		862	"	40		615	1969	15						1027	1970	62	
441	"	917		864	"	20		627	1968	1275						1034	1969	388	
443	"	869		866	"	42		631	"	1413						1047	1970	118	
457	"	840		875	"	7		642	1967	1153						1103	"	20	
460	"	819		878	1969	961		650	1969	13						1106	1969	1297	
463	"	501						654	1968	1367						1115	1970	158	
467	"	783						659	"	1466						1122	"	150	
500	"	893						672	1969	1238						1149	1969	422	
505	"	872						679	1968	1455						1164	"	1249	
513	"	966						686	"	1073						1162	1970	14	
518	"	1153						693	1969	7						1199	1969	518	
523	"	951						719	1970	7						1295	1970	87	
525	"	938						736	1968	450									
527	"	1144						743	1970	27									
531	1967	1335						757	1969	1144									
541	1969	1020						785	"	1249									
545	"	927						844	"	1028									
549	"	946						908	"	1311									
554	"	1053						919	"	961									
560	"	1089						929	"	1118									
566	"	1241						937	1970	189									
571	"	944						944	"	97									
574	"	1068						982	1969	971									
579	"	1352						1008	1970	20									
583	"	933						1039	"	108									
593	"	1024						1048	"	146									
598	"	1201						1110	"	137									
625	"	1062						1131	"	181									
632	"	1100																	
641	"	1157																	
644	"	1108																	
648	"	1126																	
652	"	930																	
654	"	1130																	
661	"	1187																	
665	"	1165																	
668	"	1076																	
674	"	1190																	
680	"	1031																	

(1968) 2 SCWR				(1969) 1 SCWR			
SCWR	AIR	SO		SCWR	AIR	SO	
351	1969	552		593	1969	133	
357	"	313		615	"	42	
373	"	556		624	"	43	
381	"	297		633	"	37	
393	"	253		639	"	43	
417	"	682		653	"	48	
448	"	579		680	"	105	
461	"	401		692	"	48	
472	"	893		701	"	474	
489	"	575		721	"	893	
512	"	270		731	"	433	
621	"	276		739	"	1094	
735	"	168		748	"	971	
764	1968	1182		758	"	1267	
783	"	1109		768	"	1167	
794	1969	69		716	1970	6	
804	1968	1332		792	1969	1349	
813	"	1393		803	"	1258	
817	"	1402		832	"	1275	
828	"	1495		861	1970	109	
838	"	1308		869	1969	1502	
848	"	1028		880	"	1133	
857	1969	90		928	"	1289	
874	1963	1299		944	"	1183	
882	1968	1413		958	1970	1	
889	"	1370		965	1969	1359	
895	"	1276		968	"	1294	
905	1969	23		978	1970	109	
914	"	180		987	1969	493	
918	1968	1489		993	"	565	
928	"	1210		999	"	563	
				1004	"	499	
				1008	"	569	
				1013	"	542	
				1021	"	502	
				1027	1970	62	
				1034	1969	388	
				1047	1970	118	
				1103	"	20	
				1106	1969	1297	
				1115	1970	158	
				1122	"	150	
				1149	1969	422	
				1164	"	1249	
				1162	1970	14	
				1199	1969	518	
				1295	1970	87	

(1969) 2 SCWR			
SCWR	AIR	SO	
1	1970	57	
33	1969	946	
46	1970	7	
56	1969	1171	
78	"	940	
86	"	1108	
124	"	1160	
150	"	1245	
176	1968	1050	
182	1969	823	
223	"	1234	
248	1970	165	
309	1969	778	
318	"	751	
366	"	534	
563	1970	137	
595	"	126	
600	"	146	
642	"	70	
831	"	161	
865	"	169	

(1968) 2 S C W R			
SCWR	AIR	SO	
109	1969	258	
117	"	198	
161	"	530	
270	"	674	

ILR (1967) 2 All

ILR	AIR
406 1967	SC 1384
412 "	" 1386
554 "	" 1747
663 1968	" 111
670 "	" 5
741 1967	" 1631
749 1968	" 114
759 "	" 46
768 "	" 102
827 "	" 261
839 "	" 227
850 "	" 384
863 "	" 365

ILR (1968) 1 All

ILR	AIR
221 1968	SC 450
230 "	" 466
252 "	" 410
864 "	" 728
871 "	" 954
923 "	" 960

ILR (1968) 2 All

ILR	AIR
1 1968	SC 772

1969 All Cri R

All Cri R	AIR
49 1968	SC 1444
154 "	" 1422
157 1969	SC 40
224 "	" 355
257 1968	" 1402
272 1969	" 1464
312 "	" 689
325 "	" 686
339 1970	" 140
349 1969	" 422
439 1970	" 20

1969 All L J

All L J	AIR
1 1969	SC 53
51 "	" 7
53 1968	" 1273
68 "	" 1893
159 1969	" 285
290 "	" 253
323 "	" 193
344 "	" 313
377 1968	" 1509
387 1969	" 474
394 "	" 401
462 "	" 258
467 1968	" 395
475 1969	" 1292
570 "	" 297
598 "	" 674
635 "	" 556
638 "	" 689
638 "	" 422
736 "	" 499

1969 All L J

All L J	AIR
988 1969	SC 1118
1009 "	" 1238
1071 1970	" 58
1074 1968	" 1073

1968 All W R (HC)

All W R	AIR
722 1968	SC 1351
748 "	" 1058
767 1969	" 7
884 "	" 73

1969 All W R (HC)

All W R	AIR
59 1968	SC 1444
223 "	" 1422
227 1969	" 40
306 "	" 1349
351 "	" 355
404 1968	" 1403
421 "	" 1464
473 1969	" 689
497 1969	" 686
511 1970	" 140
549 1969	" 422
738 "	" 674

(1968) 17 Fac L R

F L R	AIR
218 1969	SC 530
411 "	" 118
445 1968	" 800

(1969) 18 Fac L R

FLR	AIR
10 1969	SC 276
100 1968	" 1495
125 1969	" 180
159 "	" 285
164 "	" 306
172 "	" 360
189 "	" 162
284 "	" 590
300 "	" 966
308 1970	" 87
315 1969	" 513
336 "	" 612
373 "	" 1335
397 1970	" 6

(1969) 19 Fac L R

FLR	AIR
27 1970	SC 82
67 1969	" 762
117 1970	" 196
140 1969	" 1306
180 "	" 992
191 "	" 933

1969 (19) Fac L R

Fac L R	AIR
203 1969	SC 998
212 "	" 976
246 1968	" 1367
258 1970	" 70
375 1969	" 1280

(1968) 2 An L T

An LT	AIR
280 1969	SC 50
354 1968	" 1379
375 "	" 1005

(1969) 1 An L T

An LT	AIR
41 1968	SC 1299
47 "	" 1393
62 1969	" 110
101 1968	" 1223

(1969) 1 An W R (SC)

AnWR (SC)	AIR
1 1968	SC 327
6 "	" 1028
11 "	" 1047
28 1969	" 147
47 "	" 348
51 1968	" 1138
83 1969	" 563
86 "	" 493
90 "	" 435

(1969) 2 An W R (SC)

AnWR (SC)	AIR
1 1969	SC 682
6 "	" 740
9 "	" 701
15 "	" 110
25 "	" 569
28 "	" 552
31 "	" 764
38 "	" 530
50 "	" 692
59 "	" 634
60 "	" 843
60 "	" 1068
95 "	" 940
99 1970	" 14
105 1969	" 1359
107 "	" 1147
114 1970	" 66

ILR (1965) 17

Assam	AIR
ILR	AIR
1 1965	SC 1301
97 "	" 1196
359 "	" 1711
374 "	" 1561
443 1966	" 1220

Assam L R (1969)

Assam L R	SC
1 1968	SC 658
15 1969	" 831

(1969) 71 Bom L R

B L R	AIR
43 1968	SC 1323
48 "	" 1413
52 1969	" 40
55 1968	" 1267
59 "	" 1364
62 "	" 1358
66 "	" 1339
83 "	" 1444
89 1969	" 37
93 "	" 63
141 1968	" 1395
148 1969	" 168
236 "	" 128
244 1968	" 1390
248 "	" 1319
438 1969	" 329
449 "	" 270
678 "	" 566
681 "	" 489
693 "	" 560
696 "	" 724

1969 Cri L J

Cri L J	AIR
1 1968	SC 1419
4 "	" 1422
6 "	" 1438
13 "	" 1444
19 "	" 1450
23 "	" 1464
26 "	" 1468
33 "	" 1509
37 "	" 1517
239 1969	" 4
257 "	" 7
259 "	" 15
262 "	" 17
267 "	" 30
271 "	" 40
274 "	" 43
279 "	" 53
285 "	" 63
401 "	" 189
520 "	" 258
525 "	" 323
645 "	" 355
649 "	" 373
654 "	" 381
659 "	" 401
663 "	" 414
671 "	" 422
803 "	" 483
1057 "	" 686
1061 "	" 689
1064 "	" 724
1428 "	" 951
1430 "	" 956
1435 "	" 961
1440 "	" 1014
1446 "	" 1028
1555 "	" 1153
1559 "	" 1171

1969 Lab I C

Lab I C	AIR
90 1969	SC 90
100 "	" 118
107 "	" 125
191 "	" 27
194 "	" 30
245 "	" 63
310 "	" 180
313 "	" 182
319 "	" 212
322 "	" 235
458 "	" 276
467 "	" 306
599 "	" 360
837 "	" 513
854 "	" 530
867 "	" 590
1139 "	" 744
1146 "	" 762
1368 "	" 966
1373 "	" 976
1380 "	" 983
1389 "	" 992
1396 "	" 938
1402 "	" 1020
1520 "	" 1249
1526 "	" 1280
1534 "	" 1302
1538 "	" 1335
1547 "	" 1294

1969 Lab I C

(See page 124)

1969 Maha L J

Maha L J	AIR
1 1969	SC 78
17 1968	" 1395
110 "	" 822
153 "	" 938
226 "	" 676
245 1969	" 4
299 1968	" 1323
305 "	" 1267
310 "	" 1413
332 "	" 850
367 1969	" 255
370 "	" 37
391 "	" 63
407 "	" 276
417 "	" 313
495 "	" 560
513 "	" 459
527 "	" 401
586 "	" 566
592 1968	" 1390
597 1969	" 724
610 1968	" 366
643 1970	" 126
778 "	" 161
780 1969	" 270
848 "	" 590
855 "	" 496
865 1968	" 594
860 1969	" 329
950 1970	" 93
956 1969	" 1190

(1969) 10 Guj

L R		AIR	
Guj L R	AIR		
48 1968	SC 1481		
100 1969	" 69		
117 " "	" 168		
156 " "	" 63		
175 " "	" 37		
188 1968	" 1468		
349 1963	" 239		
358 " "	" 270		
366 " "	" 267		
406 " "	" 373		
421 " "	" 439		
829 " "	" 1190		
851 " "	" 1302		
879 " "	" 634		
919 " "	" 1196		
982 " "	" 1294		
992 " "	" 1297		
1004 " "	" 770		
1036 " "	" 1225		

1968 Ker L J

Ker L J		AIR	
949 1969	SC 63		
955 " "	" 128		

1969 Ker L J

Ker L J		AIR	
1 1969	SC 15		
8 1968	" 1513		
14 " "	" 1419		
45 " "	" 1432		
212 1969	" 255		
277 " "	" 276		
340 " "	" 285		
344 " "	" 343		
349 " "	" 360		
413 " "	" 504		
436 " "	" 378		

1968 Ker L T

Ker L T		AIR	
649 1969	SC 378		
721 " "	" 869		
794 " "	" 430		
878 " "	" 465		

1969 Ker L T

Ker L T		AIR	
213 1969	SC 930		
215 " "	" 1122		
290 " "	" 198		

1969 Jab L J

Jab L J		AIR	
1 1969	SC 78		
32 " "	" 4		
46 1968	" 676		
53 " "	" 1299		
75 " "	" 850		
102 " "	" 642		
129 " "	" 1458		
403 1969	" 953		

1969 Jab L J

Jab L J		AIR	
414 1968	SC 1971		
441 1969	" 395		
460 " "	" 313		
479 " "	" 401		
485 " "	" 519		
495 " "	" 255		
514 " "	" 579		
520 " "	" 496		
818 1970	" 93		
837 1969	" 1276		
865 1970	" 158		

1969 M P L J

MPLJ		AIR	
1 1969	SC 78		
109 1968	" 938		
212 " "	" 850		
252 " "	" 1458		
268 " "	" 1823		
266 " "	" 1267		
271 " "	" 1413		
284 " "	" 676		
346 1969	" 255		
355 " "	" 313		
381 1968	" 894		
386 " "	" 881		
421 1969	" 1276		
425 " "	" 579		
459 " "	" 395		
465 " "	" 401		
479 " "	" 953		
493 " "	" 549		
529 1968	" 1390		
598 " "	" 366		
706 1970	" 153		
793 " "	" 161		
797 1969	" 496		
820 " "	" 590		
874 1970	" 93		
945 1968	" 1461		

1967 M P W R

MPWR		AIR	
1 1967	SC 1134		
8 " "	" 553		
30 " "	" 540		
38 " "	" 1326		
51 " "	" 523		
55 " "	" 1030		
57 " "	" 1342		
59 " "	" 1105		
64 " "	" 1170		
69 " "	" 1348		
74 " "	" 272		
91 " "	" 569		
101 " "	" 1032		
137 " "	" 1264		
190 " "	" 286		
214 " "	" 1124		
247 " "	" 1344		
280 " "	" 1193		
314 " "	" 1315		
321 " "	" 1366		
325 " "	" 1233		
348 " "	" 1454		
354 " "	" 1156		
369 " "	" 608		
407 " "	" 1384		
433 " "	" 1162		

1967 M P W R

MPWR		AIR	
511 1967	SC 448		
526 " "	" 1401		
553 " "	" 1643		
697 " "	" 565		

1968 M P W R

MPWR		AIR	
1 1968	SC 240		
25 " "	" 365		
61 1967	" 1167		
107 1968	" 384		
135 1967	" 1815		
195 1968	" 450		
228 " "	" 579		
240 " "	" 286		
253 " "	" 410		
258 " "	" 494		
271 " "	" 117		
282 " "	" 16		
326 1967	" 1390		
398 1968	" 676		
421 " "	" 960		
424 " "	" 728		
452 " "	" 881		
456 " "	" 954		
479 " "	" 620		
509 " "	" 850		
541 " "	" 894		
587 " "	" 642		
606 " "	" 707		
615 " "	" 1186		
633 " "	" 1218		
638 " "	" 1203		
666 " "	" 1079		
682 " "	" 1053		
778 " "	" 1270		
799 1967	" 1022		
826 1968	" 1461		
842 " "	" 1458		
885 1969	" 30		
894 1968	" 1299		
921 1969	" 4		

1969 M P W R

MPWR		AIR	
2 1968	SC 1281		
61 1969	" 53		
88 1968	" 1393		
90 1969	" 7		
92 1968	" 1273		
188 1969	" 255		
200 " "	" 78		
260 " "	" 253		
262 " "	" 193		
315 " "	" 313		
318 1968	" 1509		
344 1969	" 579		
349 " "	" 496		
358 " "	" 401		
362 " "	" 258		
373 " "	" 474		
418 " "	" 297		
420 1968	" 1292		
428 1969	" 395		
458 " "	" 583		
528 " "	" 674		
531 " "	" 556		
561 " "	" 689		
590 " "	" 422		

1969 M P W R

MPWR		AIR	
603 1969	SC 549		
622 " "	" 590		
872 " "	" 953		
877 " "	" 1118		
913 " "	" 1238		
969 " "	" 1276		
981 " "	" 1256		
1004 1970	" 14		

(1968) 2 M L J (SC)

MLJ (SC)		AIR	
121 1968	SC 1012		
127 " "	" 1489		
134 " "	" 985		

(1969) 1 M L J (SC)

MLJ (SC)		AIR	
1 1963	SC 327		
6 " "	" 1028		
11 " "	" 1047		
28 1969	" 147		
47 " "	" 348		
51 1968	" 1138		
83 1969	" 563		
86 " "	" 493		
90 " "	" 435		

(1969) 2 M L J (SC)

MLJ (SC)		AIR	
1 1969	SC 682		
6 " "	" 740		
9 " "	" 701		
15 " "	" 110		
25 " "	" 569		
28 " "	" 552		
31 " "	" 764		
38 " "	" 580		
50 " "	" 692		
59 " "	" 634		
80 " "	" 843		
10 " "	" 1038		
95 " "	" 940		
99 1970	" 14		
105 1969	" 1359		
107 " "	" 1147		
114 1970	" 66		

1969 MLJ (Cri)

MLJ (Cri)		AIR	
1 1968	SC 1303		
3 " "	" 1250		
7 1969	" 7		
10 1968	" 1517		
31 " "	" 1251		
36 " "	" 1311		
41 " "	" 1348		
46 1969	" 40		
49 1968	" 1509		
69 1969	" 15		
72 1968	" 1422		
75 1969	" 30		
130 1968	" 1468		
137 1969	" 53		
144 1963	" 1339		
149 " "	" 1450		
154 " "	" 1792		
172 " "	" 1313		
179 " "	" 1323		
185 " "	" 1513		
209 1969	" 253		
212 " "	" 355		
310 " "	" 63		
321 1968	" 1444		
327 " "	" 1419		
330 1967	" 1214		
344 " "	" 1494		
388 1968	" 1402		
395 1969	" 4		
398 " "	" 43		
404 " "	" 189		
442 " "	" 401		
447 " "	" 414		
456 " "	" 422		
466 " "	" 373		
471 " "	" 381		
476 " "	" 483		
482 " "	" 689		
484 " "	" 686		
488 " "	" 724		
527 " "	" 323		
547 " "	" 701		
636 " "	" 1014		
665 " "	" 1004		
675 " "	" 1028		
717 " "	" 1153		
721 " "	" 951		
724 1967	" 1335		
734 1969	" 1020		
739 " "	" 1108		
748 " "	" 983		
814 " "	" 956		
871 " "	" 961		

1968 M L W (Cri)

MLW (Cri)		AIR	
65 1963	SC 178		
70 " "	" 594		
76 " "	" 609		
79 " "	" 1		
84 " "	" 43		
188 " "	" 960		
190 " "	" 1292		
197 " "	" 1348		
200 " "	" 1281		
205 " "	" 1267		

1968 Mad L J (Cri)

MLJ (Cri)		AIR	
711 1968	SC 1464		
723 " "	" 1438		
730 " "	" 1273		
733 " "	" 1275		
757 " "	" 1270		
793 " "	" 765		
861 1969	" 961		

1969 M L W
(Cri)

MLW (Cri) AIR

19 1968 SO 1393

21 " " 1438

(1968) 38 Com
Cas

Com Cas AIR

928 1968 S C 1196

932 " " 739

39 Com Cas

Com Cas AIR

114 1969 SO 313

133 " " 297

375 1968 " 1504

410 1969 " 612

760 " " 1058

781 " " 707

808 " " 843

889 " " 1306

905 1970 " 82

(1969) 1 Com L J

Com LJ AIR

303 1969 SO 501

350 " " 707

(1969) 2 Com L J

Com LJ AIR

1 1969 SO 612

113 " " 843

188 " " 932

195 " " 917

209 " " 1058

273 1970 " 82

35 F J R

FJR AIR

106 1969 SO 306

130 " " 182

139 " " 235

162 " " 530

191 " " 612

207 " " 513

232 " " 590

337 " " 360

353 " " 296

441 1968 " 1367

36 F J R

FJR AIR

17 1969 SC 912

24 " " 966

128 " " 30

177 " " 1335

191 " " 1306

222 1970 " 70

286 " " 195

(1968) 2 I T J

ITJ AIR

401 1969 SC 292

(1969) 1 I T J

ITJ AIR

216 1969 SO 40

224 1967 " 1895

280 1969 " 209

332 " " 235

337 " " 351

371 " " 340

376 " " 313

381 " " 299

454 1968 " 1201

458 1969 " 430

482 " " 408

491 " " 460

514 " " 470

533 " " 501

554 " " 543

551 " " 572

709 " " 682

728 " " 740

732 " " 701

740 " " 812

836 " " 778

846 " " 609

851 " " 667

856 " " 775

889 " " 496

(1969) 2 I T J

ITJ AIR

57 1969 SO 612

273 " " 835

282 " " 862

302 " " 831

330 " " 897

338 " " 932

347 " " 888

353 " " 917

367 " " 869

372 " " 840

376 " " 859

418 " " 893

448 " " 927

458 " " 946

464 " " 1058

470 " " 1053

478 " " 1089

486 " " 1241

492 " " 944

496 " " 1068

509 " " 1352

514 " " 1062

526 " " 1127

544 " " 940

565 " " 1160

580 " " 1262

590 " " 1094

598 1970 " 14

623 1969 " 1183

643 1970 " 10

(1968) 69 I T R

ITR AIR

675 1969 SC 282

(1969) 71 I T R

ITR AIR

296 1969 SC 209

417 " " 340

422 " " 285

427 " " 351

453 " " 293

457 " " 319

799 " " 470

806 " " 408

815 " " 430

(1969) 72 I T R

ITR AIR

197 1969 SC 496

203 " " 543

266 " " 572

291 " " 501

408 " " 460

595 " " 778

603 " " 812

612 " " 609

617 " " 687

623 " " 682

787 " " 701

798 " " 775

801 " " 740

(1969) 73 I T R

ITR AIR

44 1968 SO 1504

53 1969 SO 612

533 " " 869

539 " " 893

546 " " 835

626 " " 888

634 " " 917

652 " " 840

685 " " 946

692 " " 927

698 " " 859

702 " " 932

735 " " 1053

745 " " 1058

751 " " 940

(1969) 74 I T R

ITR AIR

1 1969 SO 1122

7 " " 1082

17 " " 1160

26 " " 1241

33 " " 1039

41 " " 1068

49 " " 1094

57 " " 862

62 " " 1183

67 " " 1352

72 " " 1262

183 1970 " 10

190 " " 14

459 " " 118

(1968) 2 Lab L J

Lab LJ AIR

830 1967 SC 1910

(1969) 1 Lab L J

Lab LJ AIR

235 1969 SO 308

242 1968 " 1002

373 " " 754

509 " " 168

613 " " 985

620 " " 1076

523 " " 963

549 " " 1292

557 1969 " 90

567 " " 30

713 " " 182

719 " " 530

734 " " 513

751 " " 350

762 " " 590

770 " " 235

775 " " 276

785 " " 612

(1969) 2 Lab L J

Lab LJ AIR

116 1969 SO 63

377 " " 983

387 " " 992

398 " " 976

407 " " 998

549 1970 " 82

651 1969 " 1335

662 1970 " 70

673 1969 " 1280

682 1968 " 1367

685 " " 514

(1968) 22 STC

STC AIR

373 1969 SC 147

(1969) 23 STC

STC AIR

173 1969 SO 348

210 " " 344

380 " " 549

385 " " 499

(1969) 24 STC

STC AIR

174 1969 SO 880

231 " " 930

343 " " 1276

349 " " 1245

481 1970 " 165

(1968) 13 Law
Rep

Law Rep AIR

5 1967 SC 1189

(1968) 14 Law
Rep

Law Rep AIR

99 1967 SC 1550

104 " " 568

115 " " 1599

126 " " 1747

138 " " 1353

150 " " 1260

156 " " 1156

165 " " 1301

172 " " 1170

(1968) 15 Law
Rep

Law Rep AIR

459 1968 SC 169

486 " " 147

474 " " 222

477 " " 175

483 1967 " 1839

494 1968 " 90

506 " " 133

(1969) 17 Law
Rep

Law Rep AIR

5 1968 SC 653

13 " " 832

38 " " 707

47 " " 733

57 " " 850

76 " " 441

87 " " 609

93 " " 413

199 " " 751

204 " " 748

229 " " 432

534 " " 647

543 " " 497

552 " " 881

608 " " 754

667 " " 425

ILR (1966) Mys

I L R Mys AIR

868 1966 SC 1285

876 " " 1571

969 " " 1942

(1969) 35 Cut L T

Cut L T AIR

1 1969 SC 43

223 " " 90

479 " " 1081

630 " " 280

911 " " 1249

I L R 47 Pat

I L R AIR

679 1968 SC 1303

693 " " 1291

705 1969 " 7

[illegible]

1969 Lab I C				1969 Lab I C				1969 Lab I C				1969 Lab I C				1969 Lab I C			
Lab IC		A I R		Lab IC		A I R		Lab IC		A I R		Lab IC		A I R		Lab IC		A I R	
90	1969	S C	90	313	1969	S C	182	837	1969	S C	513	1373	1969	S C	976	1520	1969	S C	1249
107	"	"	125	319	"	"	212	854	"	"	530	1380	"	"	983	1526	"	"	1280
191	"	"	27	322	"	"	235	867	"	"	590	"	"	"	993	1534	"	"	1303
194	"	"	30	458	"	"	276	1139	"	"	744	1389	"	"	992	1538	"	"	1335
245	"	"	63	467	"	"	306	1146	"	"	762	1396	"	"	998	1547	"	"	1294
510	"	"	180	599	"	"	360	1368	"	"	966	1402	"	"	1020				

CHRONOLOGICAL TABLE OF INDIAN REPORTS

[1862 to 1969]

All India Reporter

1	2	3	4	5	6	7
1914	1915	1916	1917	1918	1919	1920
8	9	10	11	12	13	14
1921	1922	1923	1924	1925	1926	1927
15	16	17	18	19	20	21
1928	1929	1930	1931	1932	1933	1934
22	23	24	25	26	27	28
1935	1936	1937	1938	1939	1940	1941
29	30	31	32	33	34	35
1942	1943	1944	1945	1946	1947	1948
36	37	38	39	40	41	42
1949	1950	1951	1952	1953	1954	1955
43	44	45	46	47	48	49
1956	1957	1958	1959	1960	1961	1962
50	51	52	53	54	55	56
1963	1964	1965	1966	1967	1968	1969

Accidents Claims Journal—(Delhi)

1956—Citation by year.

Agra High Court Reports

1	2	3
1866	1867	1868

Ajmer-Merwara Law Journal

1	2	3	4	5	6	7
1927	1928	1929	1930	1931	1932	1933
8	9	10	11	12	13	14
1934	1935	1936	1937	1938	1939	1940
15	16	17	18	19	20	21
1941	1942	1943	1944	1945	1946	1947
22	23	24	25	26	27	28
1948	1949	1950	1951	1952	1953	1954
29	30					
1955	1956					

(I. L. R.) Allahabad

1	2	3	4	5	6
1875-1877	1878-1880	1881	1882	1883	1884
7	8	9	10	11	13
1885	1886	1887	1888	1889	1890
14	15	16	17	18	19
1892	1893	1894	1895	1896	1897
21	22	23	24	25	26
1899	1900	1901	1902	1903	1904
28	29	30	31	32	33
1906	1907	1908	1909	1910	1911
35	36	37	38	39	40
1913	1914	1915	1916	1917	1918
42	43	44	45	46	47
1920	1921	1922	1923	1924	1925
49	50	51	52	53	54
1927	1928	1929	1930	1931	1932
56	57	58	From 1937, citation is by year.		
1934	1935	1936			

Allahabad Criminal Reports

1953—Citation by year.

Allahabad Law Journal

1	2	3	4	5	6	7
1904	1905	1906	1907	1908	1909	1910
8	9-10	11	12	13	14	15
1911	1912	1913	1914	1915	1916	1917
16	17	18	19	20	21	22
1918	1919	1920	1921	1922	1923	1924
23	24	25	26	From 1929 citation is by year		
1925	1926	1927	1928			

Allahabad Weekly Notes

1	2	3	4	5	6	7
1881	1882	1883	1884	1885	1886	1887
8	9	10	11	12	13	14
1888	1889	1890	1891	1892	1893	1894
15	16	17	18	19	20	21
1895	1896	1897	1898	1899	1900	1901
22	23	24	25	26	27	28
1902	1903	1904	1905	1906	1907	1908

Allahabad Weekly Reporter

1935—Citation by year.

All India Tribunal Cases

1	2	3	4
1958	1959	1960	1961

(I. L. R.) Andhra or (I. L. R.) Andhra Pradesh

1955—Citation by year.

Andhra Law Times

1954—Citation by year.

Andhra Weekly Reporter

1955—Citation by year.

(I. L. R.) Assam

1	2	3	4	5	6	7
1949	1950	1951	1952	1953	1954	1955
8	9	10	11	12	13	14
1956	1957	1958	1959	1960	1961	1962
15	16	17	18			
1963	1964	1965	1966			

Assam Law Reports

1
1960 then again Yearwise from 1969

Bengal Law Reports

1	2-3	4-5	6-7	8-9	10-11	12-13
1868	1869	1870	1871	1872	1873	1874
14-15						
1875						

Bihar Law Journal Reports

1953—Citation by year.

Bihar Reports

1	2	3	4	5	6	7
1935	1936	1937	1938	1939	1940	1941
8	9	10	11	12	13	
1942	1943	1944	1945	1946	1947	

(I. L. R.) Bombay

1	2	3	4
1875-1877	1877-1878	1878-1879	1879-1880
5	6	7	8
1880-1881	1881-1882	1883	1884
11	12	13	14
1887	1888	1889	1890
18	19	20	21
1894	1895	1896	1897
25	26	27	28
1901	1902	1903	1904
32	33	34	35
1908	1909	1910	1911
39	40	41	42
1915	1916	1917	1918
46	47	48	49
1922	1923	1924	1925
53	54	55	56
1929	1930	1931	1932
58	59	60	61
1933	1934	1935	1936
62	63	64	65

From 1937, citation is by year.

Bombay High Court Reports

1	2	3	4
1862-1863	1864-1866	1866-1867	1867-1868
5	6	7	8
1868-1869	1869	1870	1871
11	12	13	14
1874	1875	1876	1877

Bombay Law Reporter

1	2	3	4	5	6	7
1899	1900	1901	1902	1903	1904	1905
8	9	10	11	12	13	14
1906	1907	1908	1909	1910	1911	1912
15	16	17	18	19	20	21
1913	1914	1915	1916	1917	1918	1919
22	23	24	25	26	27	28
1920	1921	1922	1923	1924	1925	1926
29	30	31	32	33	34	35
1927	1928	1929	1930	1931	1932	1933
36	37	38	39	40	41	42
1934	1935	1936	1937	1938	1939	1940
43	44	45	46	47	48	49
1941	1942	1943	1944	1945	1946	1947
50	51	52	53	54	55	56
1948	1949	1950	1951	1952	1953	1954
57	58	59	60	61	62	63
1955	1956	1957	1958	1959	1960	1961
64	65	66	67	68	69	70
1962	1963	1964	1965	1966	1967	1968
71						
1969						

Bombay Printed Judgments

1	2	3	4
1872-1874	1875-1877	1878-1880	1881-1883
5	6	7	8
1884-1887	1888-1890	1891-1893	1894-1896
9	10	11	12
1897-1898	1899-1900		

Burma Law Journal

1	2	3	4	5	6
1922	1923	1924	1925	1926	1927

Burma Law Reports

1948—Citation by year.

Burma Law Times

1	2	3	4	5	6	7
1908	1909	1910	1911	1912	1913	1914
8	9	10	11	12	13	14
1915	1916	1917	1918	1919	1920	

(I. L. R.) Calcutta

1	2	3	4	5
1875-1876	1876-1877	1877-1878	1879	1880
6-7	8	9	10	11
1881	1882	1883	1884	1885
15	16	17	18	19
1888	1889	1890	1891	1892
22	23	24	25	26
1895	1896	1897	1898	1899
29	30	31	32	33
1902	1903	1904	1905	1906
36	37	38	39	40
1909	1910	1911	1912	1913
43	44	45	46	47
1916	1917	1918	1919	1920
50	51	52	53	54
1923	1924	1925	1926	1927
57	58	59	60	61
1930	1931	1932	1933	1934
62	63	64	65	66
1935	1936	1937	1938	1939
67	68	69	70	71

From 1937, citation is by year.

Calcutta Law Journal

1-2	3-4	5-6	7-8	9-10	11-12	13-14
1905	1906	1907	1908	1909	1910	1911
15-16	17-18	19-20	21-22	23-24	25-26	27-28
1912	1913	1914	1915	1916	1917	1918
29-30	31-32	33-34	35-36	37-38	39-40	41-42
1919	1920	1921	1922	1923	1924	1925
43-44	45-46	47-48	49-50	51-52	53-54	55-56
1926	1927	1928	1929	1930	1931	1932
57-58	59-60	61-62	63-64	65-66	67-68	69-70
1933	1934	1935	1936	1937	1938	1939
71-72	73-74	75-76	77-78	79-80	81	82
1942	1943	1944	1945-46	1947-48	83-84	85-86
87-88	89-90	91-92	93-94	1949	1950	1951
1952	1953	1954	1955	1956	1957	1958
95-96	97-98	99-100	From 1953 citation	is by year.		

Calcutta Law Reports

1-2	3-4	5-6	7-8	9-11	12-13
1878	1879	1880	1881	1882	1883

Calcutta Weekly Notes

1	2	3	4	5	6	7
1897	1898	1899	1900	1901	1902	1903
8	9	10	11	12	13	14
1904	1905	1906	1907	1908	1909	1910
15	16	17	18	19	20	21
1911	1912	1913	1914	1915	1916	1917
22	23	24	25	26	27	28
1918	1919	1920	1921	1922	1923	1924
29	30	31	32	33	34	35
1925	1926	1927	1928	1929	1930	1931
36	37	38	39	40	41	42
1932	1933	1934	1935	1936	1937	1938

Calcutta Weekly Notes (*contd.*)

43	44	45	46	47	48	49
1939	1940	1941	1942	1943	1944	1945
50	51	52	53	54	55	56
1946	1947	1948	1949	1950	1951	1952
57	58	59	60	61	62	63
1953	1954	1955	1956	1957	1958	1959
64	65	66	67	68	69	70
1960	1961	1962	1963	1964	1965	1966
71	72	73				
1967	1968	1969				

Central Provinces Law Reports

1	2	3	4	5	6	7
1888	1889	1890	1891	1892	1893	1894
8	9	10	11	12	13	14
1895	1896	1897	1898	1899	1900	1901
15	16	17				
1902	1903	1904				

Company Cases (Madras)

1	2	3	4	5	6	7
1931	1932	1933	1934	1935	1936	1937
8	9	10	11	12	13	14
1938	1939	1940	1941	1942	1943	1944
15	16	17	18	19	20	21
1945	1946	1947	1948	1949	1950	1951
22	23	24	25	26	27	28
1952	1953	1954	1955	1956	1957	1958
29	30	31	32	33	34	35
1959	1960	1961	1962	1963	1964	1965
36	37	38	39			
1966	1967	1968	1969			

Company Law Journal (Madras)

1-2	3-4	5-6	7-8	9-10	11-12
1963	1964	1965	1966	1967	1968
13-14					
1969					

Co-operative Law Journal—(Delhi)

1964—Citation by year.

Criminal Law Journal

1	2	3-4	5-6	7-8	9-10	11
1904	1905	1906	1907	1908	1909	1910
12	13	14	15	16	17	18
1911	1912	1913	1914	1915	1916	1917
19	20	21	22	23	24	25
1918	1919	1920	1921	1922	1923	1924
26	27	28	29	30	31	32
1925	1926	1927	1928	1929	1930	1931
33	34	35	36	37	38	39
1932	1933	1934	1935	1936	1937	1938
40	41	42	43	44	45	46
1939	1940	1941	1942	1943	1944	1945
47	48	49	50	51	52	
1946	1947	1948	1949	1950	1951	
1952, citation is by year.						

Current Law Journal (Punjab)

1961—Citation by year.

Current Indian Statutes (Important Judgments)

1962—Citation by year.

(I L R.) Cuttack

1949—Citation by year.

Cuttack Law Times

5	6	7	8	9	10	11
1939	1940	1941	1942	1943	1944	1945
12	13	14	15	16	17	18
1946	1947	1948	1949	1950	1951	1952
19	20	21	22	23	24	25
1953	1954	1955	1956	1957	1958	1959
26	27	28	29	30	31	32
1960	1961	1962	1963	1964	1965	1966
33	34	35				
1967	1968	1969				

Eastern Law Reporter

1	2
1962	1963

Election Law Reports (Delhi)

1	2	3 to 8	9-10	11	12
1951	1952	1953	1954	1955	1956
13	13 to 19	20	21	22	
1957	1958	1959	1960	1961	

Factories and Labour Reports (Allahabad)

1	2	3	4	5	6	7
1960	1961	1961	1962	1962	1963	1963
8	9	10	11	12-13	14-15	16-17
1964	1964	1965	1965	1966	1967	1968
18	19					
1969						

Factories Journal Reports (Madras)

1	2	3	4	5	6	7
1949	1950	1951	1952	1953	1954	1954
8	9	10	11	12	13	14
1955	1955	1956	1956	1957	1957	1958
15	16-17	18-19	20-21	22-23	24-25	26-27
1958	1959	1960	1961	1962	1963	1964
28-29	30-31	32-33	34	35		
1965	1966	1967	1968	1969		

Federal Court Reports

1939—Citation by year.

Federal Law Journal (Madras)

1938—Citation by year.

I. L. R. (Gujarat)

1963—Citation by year.

Gujarat High Court Reporter

1	2
1960	1961

Gujarat Law Reporter

1	2	3	4	5	6	7
1960	1961	1962	1963	1964	1965	1965
8	9	10				
1967	1968	1969				

(I. L. R.) Hyderabad

1951—Citation by year.

Hyde's Reports

1-2
1897

Income-tax Journal (Madras)

1963—Citation by year.

Income-tax Reports (Madras)

1	2	3	4	5	6	7
1933	1934	1935	1936	1937	1938	1939
8	9	10	11	12	13	14
1940	1941	1942	1943	1944	1945	1946
15	16	17	18	19-20	21-22	
1947	1948	1949	1950	1951	1952	
23-24	25-26	27-28	29-30	31-32	33-34	
1953	1954	1955	1956	1957	1958	
35-36-37	38-39-40	41-42-43	44-45-46			
1959	1960	1961	1962			
47-48-49-50	51-52-53-54	55-56-57-58				
1963	1964	1965				
59-60-61-62	63-64-65-66	67-68-69-70				
1966	1967	1968				
71-72-73-74						
1969						

(L. R.) Indian Appeals

1A (Sup Vol)	1	2	3
1872	1873-1874	1874-1875	1875-1876
4	5	6	7
1876-1877	1877-1878	1878-1879	1879-1880
8	9	10	11
1880-1881	1881-1882	1882-1883	1883-1884
12	13	14	15
1884-1885	1885-1886	1886-1887	1887-1888
16	17	18	19
1888-1889	1890	1891	1892
22	23	24	25
1895	1896	1897	1898
29	30	31	32
1902	1903	1904	1905
36	37	38	39
1909	1910	1911	1912
43	44	45	46
1916	1917	1918	1919
50	51	52	53
1923	1924	1925	1926
57	58	59	60
1930	1931	1932	1933
64	65	66	67
1937	1938	1939	1940
71	72	73	74
1944	1945	1946	1947
			1948
			1949
			1950

Indian Cases

1-4	5-8	9-12	13-17	18-21	22-25
1909	1910	1911	1912	1913	1914
26-31	32-36	37-42	43-48	49-53	54-58
1915	1916	1917	1918	1919	1920
59-64	65-70	71-77	78-84	85-91	92-98
1921	1922	1923	1924	1925	1926
99-106	107-112	113-120	121-128	129-134	
1927	1928	1929	1930	1931	
135-140	141-146	147-152	153-158	159-165	
1932	1933	1934	1935	1936	
166-172	173-178	179-184	185-190	191-196	
1937	1938	1939	1940	1941	
197-203	204-209	210-215	216-221	222-227	
1942	1943	1944	1945	1946	
228-231					
1947					

Indian Jurist

1	2	3	4	5	6	7
1877	1878	1879	1880	1881	1882	1883
8	9	10	11	12	13	14
1884	1885	1886	1887	1888	1889	1890
15	16	17				
1891	1892	1893				

Indian Rulings

IR 1929	IR 1930	IR 1931	IR 1932	6
1929	1930	1931	1932	1933-1934
7	8	9	10	
1934-1935	1935-1936	1936-1937	1937-1938	
11	12	13	14	
1938-1939	1939-1940	1940-1941	1941-1942	
15	16	17	18	
1942-1943	1943-1944	1944-1945	1945-1946	
19				
1946-1947				

Jabalpur Law Journal

1957—Citation by year.

Jammu & Kashmir Law Reports

7	8	9	10
1948-49	1949-50	1950-51	1951-52
11	12	13	
1952-53	1953-54	1954-1955	

Jaipur Law Reports

1946—Citation by year.

(I. L. R.) Karachi

1939—Citation by year.

Karnatak Law Journal (Mysore)

1957—Citation by year

Kashmir Law Journal

1962—Citation by year

(I. L. R.) Kerala

1957—Citation by year.

Kerala Law Journal

1957—Citation by year.

Kerala Law Reporter

1959—Citation by year.

Kerala Law Times

1949—Citation by year.

Knapp's Reports, Privy Council

1	2	3
1829-31	1831-34	1834-36

Labour and Industrial Cases (Published by A. I. R.)

1968—Citation is by year.

Labour Appeal Cases

1954—Citation by year.

Labour Law Journal (Madras)

1	2	From 1951, Citation is by
1949	1950	year.

(I. L. R.) Lahore

1	2	3	4	5	6	7
1920	1921	1922	1923	1924	1925	1926
8	9	10	11	12	13	14
1927	1928	1929	1930	1931	1932	1933
15	16	17	From 1937 to 1947 cita-			
1934	1935	1936	tion by year.			

(Pak. L. R.) Lahore

Pak L. R. 1948 Lah - Citation by year.

Lahore Law Journal

1	2	3	4	5	6	7
1919	1920	1921	1922	1923	1924	1925
8	9	10	11	12		
1926	1927	1928	1929	1930		

Law Reporter, Allahabad

1	2	3	4	5	6	7
1920	1921	1922	1923	1924	1925	1926
8	9	10	11	12	13	14
1927	1928	1929	1930	1931	1932	1933
15	16	17				
1934	1935	1936				

Law Reports (Mysore)

1-4	5-8	9-12	13-16	17-20
1965	1966	1967	1968	1969

Lower Burma Rulings

1	2	3	4
1900-1902	1903-1904	1905-1906	1907-1908
5	6	7	8
1909-1910	1911-1912	1912-1914	1915-1916
9	10	11	
1917-1918	1919-1920	1921-1922	

(I. L. R.) Lucknow

1	2	3	4	5	6	7
1926	1927	1928	1929	1930	1931	1932
8	9	10	11	12	13	14
1933	1934	1935	1936	1937	1938	1939
15	16	17	18	19	20	21
1940	1941	1942	1943	1944	1945	1946
22	23					
1947	1948					

(I. L. R.) Madhya Bharat

1952-Citation by year.

Madhya Bharat Law Journal

1952-Citation by year.

Madhya Bharat Law Reporter

1952-Citation by year.

R Madhya Pradesh

1957-Citation by year.

Madhya Pradesh Cases

1957-Citation by year.

Madhya Pradesh Law Journal

1956-Citation by year

Madhya Pradesh Weekly Reporter

1967-Citation by year.

(I L R) Madras

1	2	3	4-5	6
1876-1878	1878-1880	1881	1882	1883
7	8	9	10	11
1884	1885	1886	1887	1888
14	15	16	17	18
1889	1890	1891	1892	1893
21	22	23	24	25
1894	1895	1896	1897	1898
26	27	28	29	30
1899	1900	1901	1902	1903
31	32	33	34	35
1904	1905	1906	1907	1908
36	37	38	39	40
1909	1910	1911		

1969 (S.C.) Indexes 9/(1) (4 pp.)

(I. L. R) Madras (contd.)

35	36	37	38	39	40	41
1912	1913	1914	1915	1916	1917	1918
42	43	44	45	46	47	48
1919	1920	1921	1922	1923	1924	1925
49	50	51	52	53	54	55
1926	1927	1928	1929	1930	1931	1932
56	57	58	59	From 1937 citation is by year.		
1933	1934	1935	1936			

Madras High Court Reports

1	2	3	4
1862-1863	1864-1865	1866-1868	1868-1869
5	6	7	8
1869-1870	1870-1871	1871-1874	1874-1875

Madras Law Journal

1	2	3	4	5	6	7
1891	1892	1893	1894	1895	1896	1897
8	9	10	11	12	13	14
1898	1899	1900	1901	1902	1903	1904
15	16	17	18	19	20	21
1905	1906	1907	1908	1909	1910	1911
22-23	24-25	26-27	28-29	30-31	32-33	
1912	1913	1914	1915	1916	1917	
34-35	36-37	38-39	40-41	42-43	44-45	
1918	1919	1920	1921	1922	1923	
46-47	48-49	50-51	52-53	54-55	56-57	
1924	1925	1926	1927	1928	1929	
58-59	60-61	62-63	64-65	66-67	68-69	
1930	1931	1932	1933	1934	1935	
70-71	From 1937 citation is by year.					
1936						

Madras Law Journal (Criminal)

1956-Citation by year

Madras Law Times

1	2	3-4	5-6	7-8	9-10	11-12
1906	1907	1908	1909	1910	1911	1912
13-14	15-16	17-18	19-20	21-22	23-24	
1913	1914	1915	1916	1917	1918	
25-26	27-28	29	30-31	32-33	34-35	
1919	1920	1921	1922	1923	1924	

Madras Law Weekly

1	2	3-4	5-6	7-8	9-10	11-12
1914	1915	1916	1917	1918	1919	1920
13-14	15-16	17-18	19-20	21-22	23-24	
1921	1922	1923	1924	1925	1926	
25-26	27-28	29-30	31-32	33-34	35-36	
1927	1928	1929	1930	1931	1932	
37-38	39-40	41-42	43-44	45-46	47-48	
1933	1934	1935	1936	1937	1938	
49-50	51-52	53-54	55	56	57	
1939	1940	1941	1942	1943	1944	
58	59	60	61	62	63	64
1945	1946	1947	1948	1949	1950	1951
65	66	67	68	69	70	71
1952	1953	1954	1955	1956	1957	1958
72	73	74	75	76	77	78
1959	1960	1961	1962	1963	1964	1965
79	80	81	82			
1966	1967	1968	1969			

Madras Law Weekly (Criminal)

1966-Citation by year.

Madras Weekly Notes

1910—Citation by year

Maharashtra Law Journal (Nagpur)

1963—Citation by year.

Marwar Law Reporter

1947—Citation by year.

Moore's Indian Appeals

1	2	3	4
1836-1837	1837-1841	1841-1846	1846-1851
5	6	7	8
1851-1854	1854-1857	1857-1859	1859-1861
9	10	11	12
1861-1863	1863-1866	1866-1867	1867-1869
13	14		
1869-1870	1870-1872		

Municipal Law Journal

1	2
1962	1963

(I. L. R.) Mysore

1951—Citation by year.

Mysore Chief Court Reports

1	2	3	4	5	6	7
1896	1897	1898	1899	1900	1901	1902
8	9	10	11	12	13	14
1903	1904	1905	1906	1907	1908	1909
15	16	17	18	19	20	21
1910	1911	1912	1913	1914	1915	1916
22	23	24	25	26	27	28
1917	1918	1919	1920	1921	1922	1923
29	30	31	32	33	34	35
1924	1925	1926	1927	1928	1929	1930

Mysore High Court Reports

36	37	38	39	40	41	42
1931	1932	1933	1934	1935	1936	1937
43	44	45	46	47	48	49
1938	1939	1940	1941	1942	1943	1944
50	51	52	53	54	55	
1945	1946	1947	1948	1949	1950	

Mysore Law Journal

1	2	3	4	5	6	7
1923	1924	1925	1926	1927	1928	1929
8	9	10	11	12	13	14
1930	1931	1932	1933	1934	1935	1936
15	16	17	18	19	20	21
1937	1938	1939	1940	1941	1942	1943
22	23	24	25	26	27	28
1944	1945	1946	1947	1948	1949	1950
29	30	31	32	33	34	35
1951	1952	1953	1954	1955	1956	1957
36	37	38	39	40	41	42-43
1958	1959	1960	1961	1962	1963	1964
44-45	46	47	48	49		
1965	1966	1967	1968	1969		

Mysore Law Reports

1	2	3	4	5	6	7
1878	1879	1880	1881	1882	1883	1884
8	9	10	11	12	13	14
1885	1886	1887	1888	1889	1890	1891
15	16	17	18			
1892	1893	1894	1895			

(I. L. R. Nagpur

1936—Citation by year.

Nagpur Law Journal

1	2	3	4	5	6	7
1918	1919	1920	1921	1922	1923	1924
8	9	10	11	12	13	14
1925	1926	1927	1928	1929	1930	1931
15	16	17	18	19	20	
1932	1933	1934	1935	1936	1937	From
1938—Citation is by year.						

Nagpur Law Reports

1	2	3	4	5	6	7
1905	1906	1907	1908	1909	1910	1911
8	9	10	11	12	13	14
1910	1913	1914	1915	1916	1917	1918
15	16	17	18	19	20	21
1919	1920	1921	1922	1923	1924	1925
22	23	24	25	26	27	28
1926	1927	1928	1929	1930	1931	1932
29	30	31				
1933	1934	1935				

North-West Provinces High Court Reports

1	2	3	4	5	6	7
1869	1870	1871	1872	1873	1874	1875

Orissa Judicial Decisions

1	2	3	4	5	6	7
1959	1960	1961	1962	1963	1964	1965
8	9	10	11			
1966	1967	1968	1969			

Oudh Cases

1	2	3	4	5	6	7
1898	1899	1900	1901	1902	1903	1904
8	9	10	11	12	13	14
1905	1906	1907	1908	1909	1910	1911
15	16	17	18	19	20	21
1912	1913	1914	1915	1916	1917	1918
22	23	24	25	26	27	28
1919	1920	1921	1922	1923	1924	1925
29						
1926						

Oudh Law Journals

1	2	3	4	5	6	7
1914	1915	1916	1917	1918	1919	1920
8	9	10	11	12	13	
1921	1922	1923	1924	1925	1926	

Oudh Law Reports

1934—Citation by year.

Oudh Weekly Notes

1	2	3	4	5	6	7
1924	1925	1926	1927	1928	1929	1930
8	9	10	11	From 1935 citation is by year.		
1931	1932	1933	1934			

(I. L. R.) Patna

1	2	3	4	5	6	7
1922	1923	1924	1925	1926	1927	1928
8	9	10	11	12	13	14
1929	1930	1931	1932	1933	1934	1935
15	16	17	18	19	20	21
1936	1937	1938	1939	1940	1941	1942
22	23	24	25	26	27	28
1943	1944	1945	1946	1947	1948	1949
29	30	31	32	33	34	35
1950	1951	1952	1953	1954	1955	1956
36	37	38	39	40	41	42
1957	1958	1959	1960	1961	1962	1963
43	44	45	46	47	48	
1964	1965	1966	1967	1968	1969	

Patna High Court Cases

1957 - Citation by year.

Patna Law Journal

1	2	3	4	5	6
1916	1917	1918	1919	1920	1921

Patna Law Journal Reports

1968 - Citation by year.

Patna Law Reports

1	2	3
1923	1924	1925

Patna Law Reports (New)

1957 - Citation by year.

Patna Law Times

1	2	3	4	5	6	7
1920	1921	1922	1923	1924	1925	1926
8	9	10	11	12	13	14
1927	1928	1929	1930	1931	1932	1933
15	16	17	18	19	20	21
1934	1935	1936	1937	1938	1939	1940
22	23	24	25	26	27	28
1941	1942	1943	1944	1945	1946	1947
29	30					
1948	1949					

Patna Law Weekly

1	2-3	4-5
1916	1917	1918

Patna Weekly Notes

1936 - Citation by year.

(I. L. R.) Patiala

1952 - Citation by year.

Pepsu Law Reports

1	2	3
1949	1950	1951

(I. L. R.) Punjab or East Punjab

1948 - Citation by year.

Punjab Law Journal

1967 - Citation by year.

Punjab Law Reporter

1900 - Citation by year upto 1924 and then

26	27	28	29	30	31	32
1925	1926	1927	1928	1929	1930	1931
33	34	35-36	37	38	39	40
1932	1933	1934	1935	1936	1937	1938
41	42	43	44	45	46	47
1939	1940	1941	1942	1943	1944	1945
48	49	50	51	52	53	54
1946	1947	1948	1949	1950	1951	1952
55	56	57	58	59	60	61
1953	1954	1955	1956	1957	1958	1959
62	63	64	65	66	67	68
1960	1961	1962	1963	1964	1965	1966
69	70	71				
1967	1968	1969				

Punjab Law Reporter (Delhi Section)

70	71
1968	1969

Punjab Records

1872 - Citation by year.

Punjab Weekly Reporter

1905 - Citation by year.

(I. L. R.) Rajasthan

1	2	3	4	5	6	7
1951	1952	1953	1954	1955	1956	1957
8	9	10	11	12	13	14
1958	1959	1960	1961	1962	1963	1964
15	16	17	18	19		
1965	1966	1967	1968	1969		

Rajasthan Law Weekly

1950 - Citation by year.

(I. L. R.) Rangoon

1	2	3	4	5	6	7
1923	1924	1925	1926	1927	1928	1929
8	9	10	11	12	13	14
1930	1931	1932	1933	1934	1935	1936

Rangoon Law Reports

1937 - Citation by year upto 1947.

Rent Control Reporter - Chandigarh

1969 - Citation by year.

Revenue Decisions

Sales Tax Cases (Madras)

1	2	3	4	5	6	7
1938-50	1951	1952	1953	1954	1955	1956
8	9	10	11	12	13	14
1957	1958	1959	1960	1961	1962	1963
15	16	17-18	19-20	21-22	23-24	
1964	1965	1966	1967	1968	1969	

Saurashtra Law Reporter

1	2	3	4	5	6	7
1948	1949	1950	1951	1952	1953	1954
8	9					
1955	1956					

Services Law Reporter - Chandigarh

1967 - Citation by year.

Sind Law Reporter

1	2	3	4	5	6	7
1907	1908	1909	1910	1911	1912	1913
8	9	10	11	12	13	14
1914	1915	1916	1917	1918	1919	1920
15	16	17	18	19	20	21
1921	1922	1923	1924	1925	1926	1927
22	23	24	25	26	27	28
1928	1929	1930	1931	1932	1933	1934
29	30	31	32			
1935	1936	1937	1938			

Supreme Court Reports

1950—Citation by year.

Supreme Court Appeals

(C. W. N. Supplement)

1952—Citation by year.

Supreme Court Cases

1956—Citation by year.

Supreme Court Decisions

1961—Citation by year.

Supreme Court Journal (Madras)

1950—Citation by year.

Supreme Court Weekly Reporter

1963—Citation by year.

Sutherland's Weekly Reporter

1	2-4	5-6	7-8	9-10	11-12	13-14
1864	1865	1866	1867	1868	1869	1870
15-16	17-18	19-20	21-22	23-24	25	26
1871	1872	1873	1874	1875	1876	1877

Travancore-Cochin Law Reports

1949—Citation by year.

(I. L. R.) Travancore-Cochin

1951—Citation by year.

Travancore Law Journal

1	2	3	4	5	6	7
1911	1912	1913	1914	1915	1916	1917
8	9	10	11	12	13	14
1918	1919	1920	1921	1922	1923	1924
15	16	17	18	19	20	21
1925	1926	1927	1928	1929	1930	1931
22	23	24	25	26	27	28
1932	1933	1934	1935	1936	1937	1938
29	30	31	32	33	34	35
1939	1940	1941	1942	1943	1944	1945
36	37					
1946	1947					

Uchchatam Nyayalaya Nirnaya Patrica
(Hindi)

1968—Citation by year.

United Provinces Law Reports

1	2	3
1919	1920	1921

Upper Burma Rulings

1 Cri	2 Civ	From 1904 citation
1892-1903	1892-1903	2
by year upto 1913 and then		1914-1915
3	4	
1917-1920	1921-1923	

Weir's Criminal Rulings

Volumes 1, 2

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NOMINAL TABLE

Arthur Lee Raney v. Board of Education of the Gould School District	(Sep) 50	John W. Terry v. State of Ohio	(June) 30
Brotherhood of Railroad Trainmen et. al., v. Jacksonville Terminal Co.	(Dec) 87	Lee Art Theatre, Inc. v. Virginia	(Sep) 58
Dale E. Noyd, Capt. v. Maj. Gen. Charles R. Bonds	(Oct) 66	National Labour Relations Board v. Joseph T. Strong	(Sep) 61
David Paul O'Brien v. United States	(May) 7	Robert Eli Stanley v. State of Georgia	(Dec) 100
Donald Leslie Berger v. California	(Sep) 60	Uniformed Sanitation Men Association Inc. v. Commissioner of Sanitation of the City of New York	(Sep) 53
Dunbar-Stanley Studios, Inc. v. State of Alabama	(Dec) 108	United States v. David Paul O'Brien	(May) 7
George Campbell Painting Corpn. v. William Reid	(Sep) 55	W. Willard Wirtz v. Hotel, Motel and Club Employees Union	(June) 25
Green v. School Board of New Kent County	(May) 1	William C. Witherspoon v. State of Illinois et. al.	(June) 18
John F. Tinker v. Des Moines	(Oct) 76	William Joe Johnson v. Harry S. Avery	(Oct) 67

SUBJECT INDEX

Civil Procedure Code (5 of 1908), Preamble— Interpretation of Statutes—Constitutionality of statute — Illicit motive of legislature inquiry into — Intention of legislature — Speeches in Congress— Relevancy — Bill of attainder — Legislative purpose may be enquired into—Civil P. C. (1908), Preamble — Interpretation of Statutes—Motive of legislature—See Constitution of India, Preamble	(May) 7E	Constitution of America (contd.)	
—Preamble — Precedents — Retrospective operation — Case from U. S. A. — Right of accused, of confrontation—Admissibility of former testimony of absent witness — Supreme Court decision on the question of use of such testimony — Retroactive operation given—(Evidence Act (1872), S. 32)	(Sep) 60B	—First Amendment & Fourteenth Amendment— Case from America— Constitution of United States of America (First and Fourteenth Amendment) State statute prohibiting private possession of obscene matter is unconstitutional under the 1st Amendment read with the 14th Amendment— Government interest in dealing with such matter, extent of—Right to receive information and ideas is fundamental to free society — See Constitution of India, Art. 19 (1) (a) and (f)	(Dec) 100
Constitution of America, Art. 1, S. 8, Cl. (3)— See Constitution of India, Art. 304	(Dec) 108	—Fifth Amendment — Akin to Art. 20 (3), Constitution of India — See Constitution of India, Art. 20 (3)	(Sep) 53
—First Amendment — Freedom of speech— Case on American Constitution—Every kind of conduct is not speech — See Constitution of India, Art. 19	(May) 7A	—Fifth Amendment — Case from U. S. A.— Corporation cannot avail itself of constitutional privilege against self-incrimination —It cannot take advantage of invalidity of statute requiring person contracting with public authority to testify before grand jury or to waive privilege against self-incrimination—See Constitution of India, Art. 20 (3)	(Sep) 55A
—First Amendment — See Constitution of India, Art. 19 (1) (a)	(Oct) 76	—Sixth Amendment — Accused's right to confrontation with witnesses against him— Object of the right is to guarantee the fact finding authority to assess the credibility of witnesses — (Evidence Act (1872), S. 32)— (Constitution of India, Art. 226)— (Criminal P. C. (1893), S. 283)	(Sep) 60A
—First and Fourteenth Amendment — Unconstitutional seizure of alleged obscene film — Admission of film in evidence—See Constitution of India, Art. 19 (1) (a)	(Sep) 58		

Constitution of America (contd.)

— *Fourteenth Amendment* — See Constitution of India, Art. 14 (July) 46

— *Fourteenth Amendment* — See Constitution of India, Art. 226 (Oct) 67A

— *Fourteenth Amendment, S. 1* — See Constitution of India, Art. 304 (Dec) 108

Constitution of India, Preamble — Constitutionality of statute — Illicit motive of legislature, enquiry into — Intention of legislature — Speeches in Congress — Relevancy — Bill of attainder — Legislative purpose may be enquired into — Civil P. C. (1908), Preamble — Interpretation of Statutes — Motive of legislature (May) 7E

— *Art. 13* — Case from America — Constitution of United States of America, (First and Fourteenth Amendment) State statute prohibiting private possession of obscene matter is unconstitutional under the 1st Amendment read with the 14th Amendment — Government interest in dealing with such matter, extent of — Right to receive information and ideas is fundamental to free society — See Constitution of India, Art. 19 (1) (a) and (f) (Dec) 100

— *Art. 14* — Constitution of America, 14th Amendment — Racial discrimination in schools — Supreme Court rulings against discrimination — Implementation by schools — Transition to racially non-discriminatory system — Duty of Courts (May) 1A

— *Art. 14* — Constitution of America, 14th Amendment — Racial discrimination in school — Duty of Court to consider adequacy of adoption of system to achieve non-discrimination (May) 1B

— *Art. 14* — Constitution of America, 14th Amendment — Racial discrimination in schools — Direction in Supreme Court rulings — Effect — Duty of school board operating discriminatory systems — Duty of Court to give effect to decree of Supreme Court (May) 1C

— *Art. 14* — Constitution of America, 14th Amendment — Racially discriminatory system in schools — Supreme Court declaring them unconstitutional — Delay of ten years in adoption of non-discrimination system — Effect (May) 1D

— *Art. 14* — Case on American Constitution — Provision for alternative statutory avenues of prosecution — Validity — Administrative regulations prescribing a particular avenue, may be changed or revoked from time to time by administrative discretion (May) 7C

— *Art. 14* — Bill of attainder — Constitutionality of statute — Illicit motive of legislature inquiry into — Intention of legislature — Speeches in Congress — Relevancy — Bill of

Constitution of India (contd.)

attainder — Legislative purpose may be enquired into — Civil P. C. (1908), Preamble

— Interpretation of Statutes — Motive of legislature — See Constitution of India, Preamble (May) 7E

— *Art. 14* — Constitution of America, 14th Amendment — Racially segregated school system — Conversion to unitary system — School Board's "free transfer plan" held inadequate to convert the system into unitary one (July) 45

— *Art. 14* — Case from United States of America — Racial discrimination in schools — 'Freedom of choice' scheme of School Board — Not adequate to meet the unitary system — Jurisdiction of Federal District Court (Sep) 50

— *Art. 14* — Case under U. S. A. Constitution — Inter-state trade — Tax on non-resident travelling photographers — Pictures taken in state but developed and printed outside and sent back to state — Travelling photographers paid commission on collection — Commerce clause held not violated — Tax also imposed on photography business conducted in fixed location within State — Held, that there was no discrimination — See Constitution of India, Art. 304 (Dec) 108

— *Art. 19* — Case on American Constitution — Every kind of conduct is not speech — 'Speech' and 'non-speech' in same course of conduct — Statute regulating non-speech element, when can justify incidental limitations on freedom of speech — Statute making it criminal offence to knowingly destroy certificate issued by Selective Service System — Defendant publicly burning his draft card to influence others to adopt his anti-war beliefs — Act does not abridge freedom of speech — Conviction of defendant is not illegal — (Constitution of America — 1st Amendment — Freedom of speech) (May) 7A

— *Arts. 19, 33, 245, Sch. VII, List I, Item 2* — Case on American Constitution — Power of Congress to make all laws in respect of army — Power to classify and conscript manpower for military service — Right to issue Certificate of registration and eligibility classification are administrative aids (May) 7B

— *Arts. 19 (1)(a), 21* — Case from U. S. A. — Freedom of speech and of press — Unreasonable search and seizure — Due process — Seizure of alleged obscene motion picture on warrant issued by Justice of Peace, on basis of affidavit of police officer — Admission of motion picture in evidence — Seizure and admission held unconstitutional — (Constitution of United States of America, First and Fourteenth Amendments) (Sep) 55

Constitution of India (contd.)

—*Art. 19 (1) (a)* — Freedom of speech — Case from America — Wearing of black armbands by students of public school to demonstrate their objection to Vietnam hostilities which is divorced from disruptive conduct is akin to 'pure speech' and cannot be prohibited — Reasonable restriction on such conduct—Rights of students to express opinion on controversial topics, extent of — (Constitution of America, First Amendment) (Oct) 76

—*Arts. 19 (1) (a) and (f) and 13*—Case from America — Constitution of United States of America, First and Fourteenth Amendments — State statute prohibiting private possession of obscene matter, is unconstitutional under the 1st Amendment read with the 14th Amendment — Governmental interest in dealing with such matter, extent of — Right to receive information and ideas is fundamental to free society (Dec) 100

—*Art. 19 (1) (f)*—Constitution of America, Fourth Amendment—Case from America — Search and seizure—Persons protected under 4th Amendment — Reasonableness of search — Right of privacy — Invasion of constitutional right — "Stop and frisk" procedure of police — Self-protection of investigating officers, in field investigation—Judicial scrutiny of reasonableness of search — Rule excluding evidence obtained in violation of 4th Amendment—Scope and applicability — Limitations of the rule—Seizure of weapons on person of suspected person — Weapon, when admitted in evidence—*See* Constitution of India, Art. 20 (3) (June) 30

—*Arts. 20 (3) and 19 (1) (f)* — Constitution of America, Fourth Amendment—Case from America — Search and seizure — Persons protected under 4th Amendment — Reasonableness of search — Right of privacy — Invasion of constitutional right — "Stop and frisk" procedure of police — Self-protection of investigating officers, in field investigation — Judicial scrutiny of reasonableness of search — Rule excluding evidence obtained in violation of 4th Amendment—Scope and applicability — Limitations of the rule — Seizure of weapons on person of suspected person — Weapon, when admitted in evidence — (Criminal P. C. (1898), S. 165) (June) 30

—*Arts. 20 (3), 310, 311*—Case from U.S. A. — Public employees are entitled to benefits of constitutional rights — Municipal charter requiring municipal employees to waive privilege against self-incrimination in administrative and grand jury proceedings—Employees invoking privilege and refusing to waive the same — Dismissal on this sole

Constitution of India (contd.)

ground—There is violation of Constitution—Employees refusing to account for their performance of public trust — No attempt to coerce them to relinquish constitutional privilege — There is no violation of constitutional right—(Constitution of America Fifth Amendment) (Sep) 53

—*Art. 20 (3)*—Case from U.S.A.—Corporation cannot avail itself of constitutional privilege against self-incrimination—It cannot take advantage of invalidity of Statute requiring person contracting with public authority to testify before grand jury or to waive privilege against self incrimination—(Constitution of America, Fifth Amendment) (Sep) 55A

—*Art. 21*—American case—Trial for murder—Prosecution eliminating nearly half the venire of prospective jurors by challenging under the authority of an Illinois Statute, any venireman expressing qualms about capital punishment — Jury finding accused guilty fixing the penalty at death — Reversing the penalty U. S. Supreme Court by a majority held that the sentence of death could not be carried out if the jury that imposed or recommended it was chosen by excluding venireman simply because they voiced general objections to the death penalty or expressed conscientious or religious scruples against its infliction — No accused could constitutionally be put to death at the hands of a tribunal so selected (June) 18

—*Art. 21*—Case from U. S. A.—Unreasonable search and seizure—Due process—Admission of things seized in evidence — Seizure and admission held unconstitutional — *See* Constitution of India, Art. 19 (1) (a) (Sep) 58

—*Art. 22*—Bill of attainder—Constitutionality of statute — Illicit motive of legislature inquiry into — Intention of legislature — Speeches in Congress—Relevancy — Bill of attainder — Legislative purport may be enquired into—Civil P. C. (1908), Preamble — Interpretation of Statutes—Motive of legislature — *See* Constitution of India, Preamble (May) 7E

—*Art. 22 (1)*—Case from U.S.A.—Rules forbidding illiterate prisoners from filing habeas corpus petitions is ultra vires — Rule prohibiting assistance from fellow prisoners to preparing writ petition is also ultra vires — *See* Constitution of India, Art. 226 (Oct) 67A

—*Art. 32*—Case from U. S. A.—Incarceration under Court Martial — Writ of certiorari before Supreme Court — Writ for Habeas Corpus denied by appellate Court—Substantial question of law involved before Supreme Court — Session Judge can order

Constitution of India (contd.)

accused to be placed in non-incarcerated status — *See* Constitution of India, Art. 226 (Oct) 66

— *Art. 33* — Case on American Constitution — Power of Congress to make all laws in respect of army — Power to classify and conscript man power — Right to issue Certificate of Registration and eligibility classification are administrative ends — *See* Constitution of India, Art. 19 (May) 7B

— *Arts. 132, 133, 134* — Case from U. S. A. — Practice of Supreme Court of America — Review of findings of State Court — Findings of Supreme State Court that resignation of president of corporation was tendered and accepted solely for purposes of avoiding statutory disqualification of the corporation from contracting with public authority and its conclusion that the purported resignation should be disregarded for purposes of the case — Supreme Court of America will not disturb finding and the conclusion (Sep) 55B

— *Art. 133* — Case from U. S. A. — Practice of Supreme Court of America — Review of findings of State Court — Findings of Supreme State Court that resignation of president of Corporation was tendered and accepted solely for purposes of avoiding statutory disqualification of the corporation from contracting with public authority and its conclusion that the purported resignation should be disregarded for purposes of the case — Supreme Court of America will not disturb finding and the conclusion — *See* Constitution of India, Art. 132 (Sep) 55B

— *Art. 134* — Case from U. S. A. — Practice of Supreme Court of America — Review of findings of State Court — Findings of Supreme State Court that resignation of president of Corporation was tendered and accepted solely for purposes of avoiding statutory disqualification of the corporation from contracting with public authority and its conclusion that the purported resignation should be disregarded for purposes of the case — Supreme Court of America will not disturb finding and the conclusion — *See* Constitution of India, Art. 132 (Sep) 55B

— *Art. 226* — Case from America — Writ petition — New plea on constitutional question, can be raised (May) 7F

— *Art. 226* — Case from U. S. A. — Accused's right to confrontation with witnesses against him — Object of the right is to guarantee the fact finding authority to assess the credibility of witnesses — *See* Constitution of United States of America, Sixth Amendment (Sep) 60A

— *Arts. 226, 32* — Case from U. S. A. — Incarceration under Court-martial — Writ of cer-

Constitution of India (contd.)

tiorari before Supreme Court — Pending writ application for habeas corpus before Court of Appeals, denied — Substantial questions of law involved in certiorari petition — Pending hearing of certiorari by full Court, individual Judge can order petitioner to be placed in a non-incarcerated status (Oct) 66

— *Arts. 226, 22 (1)* — Habeas Corpus — Case from U. S. A. — Right to writ of habeas corpus should not be impaired — Access of prisoner to Courts for presenting complaints should not be obstructed — Duty of State to supply transcripts of prior habeas corpus hearings, to indigent prisoner — Rule forbidding illiterate prisoners to file habeas corpus petitions, is ultra vires — Rule depriving prisoners of assistance of fellow inmates in preparing petitions for post-conviction reliefs under Constitution without providing alternative assistance, is ultra vires — (Constitution of America, Fourteenth Amendment) (Oct) 67A

— *Art. 226* — Habeas corpus — Procedure — Case from America — Application by layman on behalf of prisoner (Oct) 67B

— *Art. 245* — Case on American Constitution — Power of Congress to make all laws in respect of army — Power to classify and conscript man power — Right to issue Certificate of Registration and eligibility classification are administrative ends — *See* Constitution of India, Art. 19 (May) 7B

— *Arts. 304, 14* — Case under U. S. A. Constitution — Inter-State trade — Tax on non-resident travelling photographers — Pictures taken in State but developed and printed outside and sent back to State — Travelling photographers paid commission on collection — Commerce clause held not violated — Tax also imposed on photography business conducted in fixed location within State — Held no discrimination (Dec) 10S

— *Art. 310* — Dismissal on sole ground that employee refused to waive his constitutional privilege under Art. 20 (3) — Dismissal invalid — *See* Constitution of India, Art. 20 (3) (Sep) 53

— *Art. 311* — Dismissal because employee refused to account for his performance of public trust — No constitutional rights involved — Dismissal not violative of Constitution — *See* Constitution of India, Art. 20 (3) (Sep) 53

— *Sch. VII, List 1, Item 2* — Case on American Constitution — Power of Congress to make all laws in respect of army — Power to classify and conscript man power — Right to issue Certificate of Registration and eligibility classification are administrative ends — *See* Constitution of India, Art. 19 (May) 7B

Criminal Procedure Code (5 of 1898), S. 165—
 Constitution of America, Fourth Amendment — Case from America — Search and seizure — Persons protected under 4th Amendment — Reasonableness of search — Right of privacy—Invasion of constitutional right — "Stop and frisk" procedure of police — Self-protection of investigating officers, in field investigation—Judicial scrutiny of reasonableness of search — Rule excluding evidence obtained in violation of 4th Amendment — Scope and applicability — Limitations of the rule—Seizure of weapons on person of suspected person — Weapon, when admitted in evidence — *See* Constitution of India, Art. 20 (3) (June) 30
 —S. 288—Case from U. S. A. — Accused's right to confrontation with witnesses against him — Object of the right is to guarantee the fact finding authority to assess the credibility of witnesses — *See* Constitution of United States of America, Sixth Amendment (Sep) 60A
Evidence — Testimonial compulsion, rule against—*See* Constitution of India, Art. 20 (3) (June) 30
Evidence Act (1 of 1872), S. 32 — Case from U. S. A. — Accused's right to confrontation with witnesses against him — Object of the right is to guarantee the fact finding authority to assess the credibility of witnesses — *See* Constitution of United States of America, Sixth Amendment (Sep) 60A
 —S. 32 — Case from U. S. A. — Right of accused, of confrontation — Admissibility of former testimony of absent witness — Supreme Court decision on the question of use of such testimony — Retroactive operation given—*See* Civil P. C. (1908), Preamble (Sep) 60B
Industrial Disputes Act (14 of 1947), Ss. 23, 24 and 25 — U. S. Case — Railway Labor Act — Peaceful picketing by rail employees — State Courts have no jurisdiction to interfere (Dec) 87
 —S. 24 — U. S. Case — Railway Labor Act— Peaceful picketing by rail employees— State Courts have no jurisdiction to interfere —*See* Industrial Disputes Act (1947), S. 23 (Dec) 87
 —S. 25—U. S. Case—Railway Labor Act— Peaceful picketing by rail employees—State Courts have no jurisdiction to interfere—*See* Industrial Disputes Act (1947), S. 23 (Dec) 87

Industrial Disputes Act (contd.)

—*Sch. II, Item 6 —* Case from U. S. A. — Unfair labour practice — Member of Employers' Association refusing to sign collective bargaining contract negotiated between Association and Union — It is unfair labour practice — (Trade Unions Act (1926 as amended in 1947), Ss. 28-J and 28-K)

(Sep) 61

Legal aid — Right to — *See* Constitution of India, Art. 226

Search and seizure — Constitutional right against — Constitution of America, Fourth Amendment — *See* Constitution of India, Art. 20 (3)

Trade Unions Act (16 of 1926), Ss. 21 and 22— Election of Union Officers — Union bye-law limiting the eligibility for election to Union Offices only to those who had held lesser offices, held was not a reasonable qualification since it rendered ninety-three per cent of the members ineligible to be elected — (American Case — Labour Management Reporting and Disclosure Act, 1959) (Jun) 25

—S. 22 — Election of Union Officers—*See* Trade Unions Act (1926), S. 21 (June) 25

—S. 28-J (as amended in 1947)—Case from U. S. A. — Member of Employer's Association refusing to sign collective bargaining contract negotiated between Association and Union — It is unfair labour practice — *See* Industrial Disputes Act (1947), Sch. II, Item 6 (Sep) 61

—S. 28-K (as amended in 1947)—Case from U. S. A. — Member of Employer's Association refusing to sign collective bargaining contract negotiated between Association and Union — It is unfair labour practice — *See* Industrial Disputes Act (1947), Sch. II, Item 6 (Sep) 61

Universal Military Training and Service Act (1948) (as amended in 1965 by 79 Stat. 586), 50 U. S. C. Appx, S. 462 (b) (3)— Non-possession of certificate—Mutilation of some one else's certificate is offence — Selective Service Regulations and Federal Act, 50 U. S. C. Appx. reach different wrong doers — Constitution of India, Art. 254 (May) 7D

Words and Phrases — What is — *See* Constitution of India, Preamble (May) 7E

UNITED STATES SUPREME COURT SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss. = Dissented from in; Not F. = Not followed in; Over. = Overruled in;
Revers. = Reversed in.

Arbitration Act (10 of 1940)

—Sch. I, Para. 3 read with S. 3 — (1941) 1 K B 396 — Diss. AIR 1969 Cal 167A (Mar).

Constitution of India

—Art. 14 — 381 F 2d 252 — Revers. AIR 1969 USSC 50 (Sep).

—Art. 20 (3) — (1967) 383F 2d 364 — Revers. AIR 1969 USSC 53 (Sep).

Constitution of India (contd.)

—Art. 183 (a) — (1879) 4 Q B D 230 — Not appld. AIR 1969 All 56A (Feb).

—Art. 183 (a) — (1914) 2 Ch 376 — Not appld. AIR 1969 All 56A (Feb).

—Art. 310 — (1967) 383F 2d 364 — Revers. AIR 1969 USSC 53 (Sep).

—Art. 311 — (1967) 383F 2d 364 — Revers. AIR 1969 USSC 53 (Sep).

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Diss. = Dissented from in; Not F. = Not followed in; Over. Overruled in;
Revers. = Reversed in.

(1914) 2 Ch 376 = 83 L J Ch 850, English v. Cliff — Not applied. AIR 1969 All 56A (Feb).

(1941) 1 K B 396 = 110 L J K B 54, Issaifoglu v. Covmantaros — Diss. AIR 1969 Cal 167A (Mar).

(1879) 4 Q B D 230 = 48 L J M C 95, Tomlinson v. Bullock — Not applied. AIR 1969 All 56A (Feb).

381 F 2d 252 — Revers. AIR 1969 USSC 50 (Sep).

(1967) 383 F 2d 364 — Revers. AIR 1969 USSC 53 (Sep).

COMPARATIVE TABLE

AIR 1969 U S S C = Other Journals

USSC	Other Journals	USSC	Other Journals	USSC	Other Journals	USSC	Other Journals
1	(1968) 20 Law Ed 2d 716	30	(1968) 20 Law Ed 2d 889	58	(1968) 20 Law Ed 2d 1313	67	(1969) 21 Law Ed 2d 718
7	(1968) 20 Law Ed 2d 672	46	(1968) 20 Law Ed 2d 733	60	(1969) 20 Law Ed 2d 508	76	(1969) 21 Law Ed 2d 781
18	(1968) 20 Law Ed 2d 776	50	(1968) 20 Law Ed 2d 727	61	(1969) 21 Law Ed 2d 546	87	(1969) 21 Law Ed 2d 844
25	(1968) 20 Law Ed 2d 763	53	(1968) 20 Law Ed 2d 1089		1969 Lab I C 1244	100	(1969) 22 Law Ed 2d 741
	1969 Lab I C 627	55	(1968) 20 Law Ed 2d 1094	66	(1969) 21 Law Ed 2d 551	108	(1969) 21 Law Ed 2d 75

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ALLAHABAD SECTION

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- (1) I. L. R. ALLAHABAD (2) ALLAHABAD CRIMINAL REPORTS
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ALLAHABAD HIGH COURT

1969

CHIEF JUSTICE

The Hon'ble Mr. Justice Vidyadhar Govind Oak, I.C.S.

PUISNE JUDGES

The Hon'ble Mr. Justice Jagdish Sahai.

"	"	Bishambar Dayal (up to 18-3-69 then C. J. of M. P. High Court).
"	"	Shashi Kanta Verma.
"	"	W. Broome, I.C.S.
"	"	Dhatri Saran Mathur, I.C.S.
"	"	Surendra Narayan Dwivedi.
"	"	Ram Asray Misra (At Lucknow). (Retired on 16-6-69).
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"	"	Gursaran Das Sehgal (At Lucknow).
"	"	Shankar Dayal Khare.
"	"	Gyan Chand Mathur.
"	"	Gangeswar Prasad. (Retired on 3-1-70).
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"	"	Yashoda Nandan.
"	"	Abani Kumar Kirty.
"	"	Kishen Chand Puri (At Lucknow).

ADDITIONAL JUDGES

The Hon'ble Mr. Justice Rajeshwari Prasad.

"	"	Jai Shankar Trivedi.
"	"	Tulsi Prasad Mukerjee.
"	"	Ram Lal Gulati.
"	"	Ram Briksh Misra.
"	"	Kuber Nath Srivastava.
"	"	Gur Saran Lal Srivastava (At Lucknow).
"	"	Bani Bilas Misra.
"	"	Chaturbhuj Das Parekh.
"	"	Bhimaji Narayan Rao Locur.
"	"	O. P. Trivedi (At Lucknow).
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"	"	Mahesh Narain Shukla (From 14-3-69).
"	"	K. B. Srivastava (From 7-7-69).
"	"	Jag Mohan Lal (At Lucknow) (From 7-7-69).
"	"	H. N. Seth (From 7-7-69).
"	"	Mohd. Hamid Husain (From 7-7-69).
"	"	Sudhi Bhushan Malik (From 23-7-69).

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NOMINAL TABLE

Abdul Hassan Ali, Nadir v. State of Uttar Pradesh	(Nov) 548	Imperial Electric Trading Co., Allahabad v. Industrial Tribunal (II), U. P., Allahabad	(May) 242
Abdul Rauf v. Shamshulhaq	(Jan) 35	Ishtiyag Husain Abbas Husain v. Zafrul Islam Afzal Husain	(Apr) 161
Abdul Salam v. Union of India	(May) 223	Jai Narain Har Narain v. L. Bulaqi	(Oct) 504 (FB)
Agrawal Pathsala v. Karim Bux	(Mar) 139	Das Munna Lal	(Apr) 200 (FB)
Ahribaran Singh v. State of Uttar Pradesh	(Aug) 399	Janta Cycle and Motor Mart, Kanpur v. Asst Commissioner (J), III Sales Tax Kanpur	(May) 241
Ahmad Bux v. Nathoo Ashiq Ali	(Feb) 75	Kailash Nath v. Amar Nath	(Feb) 82
Asa Singh v. B. D. Sanwal	(Oct) 474 (FB)	Kashi Prasad Saksena v. State of U. P.	(Apr) 195
Avasthi C. K. v. Chairman, Board of Governors, Indian Institute of Technology, Kanpur	(May) 213	Khairat Hussain v. Union of India	(Sep) 422
Babu Khan v. Regional Transport Authority, Meerut Region, Meerut	(Mar) 119	Kishori Lal Bihani v. Addl. Collector and District Magistrate Kanpur	(Apr) 159
Badri Prasad Rastogi v. Suraj Narain Dube	(Nov) 551	Krishna Kumar Saxena v. Chief Justice of the High Court of Judicature at Allahabad	(Mar) 112
Balak Ram v. Badri Prasad	(Feb) 88	Kulsumum Nisan Smt. v. Mohammad Farooq	(Oct) 479
Balmukund Upadhya v. Smt. Bhagwati Devi	(May) 210	Kunwar Bahadur v. Union of India	(Aug) 414 (FB)
Behariji Dass v. Chandra Mohan	(Dec) 594	Laltu v. Ram Lal	(Dec) 583
Bengal Hemp Supply Co. v. Radha Kishan Sheo Datt Rai	(Mar) 129	Mahant Manadeo v. Mahant Yaduvansh Deo Gopinath	(Dec) 571
Bhuwaneshwar Prasad v. State	(Oct) 503	Maharaja Dharmendra Prasad Singh v. State of Uttar Pradesh	(Oct) 484
Bimal Alias Bishnu Das v. State	(Dec) 591	Maharaj Singh v. Smt. Uma Singh	(Dec) 603
Bisram Singh v. State of U. P.	(Nov) 521	Malkhan Singh v. State	(Nov) 557
Chakravarty A. K. v. State	(Feb) 80	Maqbool Raza Ghaffar Hussain v. Joint Director of Consolidation U. P. Lucknow	(Jan) 26 (FB)
Chandra Bhushan v. Jayatri Devi	(Mar) 142	Mazharul Islam v. Khacher Bux	(Nov) 554
Chandra Mohan v. State of U. P.	(May) 230	Motilal Padampat Sugar Mills Co. Private Ltd. v. Nagar Mahapalika, Kanpur	(Aug) 393
Chandravati Smt. v. Shivaji Maharaj	(Feb) 72	Mukerji A. N. Dr. v. State	(Oct) 489
Chobey Sunder Lal v. Sonu	(Jun) 304 (FB)	Municipal Board Kanpur v. Additional Commissioner, Kanpur	(Apr) 177
Chooramani G. S. v. State of U. P.	(Jan) 43	Nanhai Lal v. Official Receiver Civil Court, Kanpur	(Sep) 441 (FB)
Dalchand v. State	(May) 216	Nanhey Shah v. State	(Aug) 403
Govind v. State	(Aug) 405	Nathu Ram v. Smt. Atar Kunwar	(Apr) 191
Gulshan Khandsari Udyog v. Union of India, New Delhi	(Sep) 432	National Carbon Co. v. Commissioner of Sales Tax, U. P.	(Apr) 205 (FB)
H. G. Misra & Co. v. Appellate Assistant Commissioner of Income-tax	(Dec) 566	Nawab Husain v. State of U. P.	(Oct) 466
Habib Mian v. Mukhtar Ahmad	(Jun) 296 (FB)		
Hanuman Singh v. State	(Mar) 130		
Hardevi Malkani Miss. v. State	(Sep) 423		
Harinath v. Ram Pratap Singh	(Apr) 170		

Niranjanlal Potdar v. Commissioner of Income-tax, U. P. Lucknow	(Aug) 387	Seth Dwarka Prasad v. Kunj Behari Lal	(May) 220 (FB)
Panna Lal v. State U. P.	(Mar) 123	Shabbir Abdul Rehman v. State	(Oct) 478
Paras Nath v. State	(Mar) 116	Shanti Sarup v. Radhaswami Satsang Sabha, Dayalbagh Agra	(May) 248
Phool Chand v. Lalit Kishore	(Apr) 155	Shiv Charan Das Sharma v. Regional Transport Authority	(Jun) 269 (FB)
Prakash Chandra v. Ram Swarup	(Aug) 400	Shiv Nath v. Shri Ram Bharosey Lal	(Jul) 333 (FB)
Pritam Singh v. State	(Nov) 513	Shiv Singh v. State Transport Appellate Tribunal	(Jan) 14
Purtabpore Co., Ltd. v. The State of Bihar	(Mar) 105	Shree Gopal Paper Mills Ltd. v. Inspector of Factories, U. P.	(Nov) 547
R. B. Narain Singh Sugar Mills Ltd. Lhaksar v. Commissioner of Sales Tax U. P. Lucknow,	(Nov) 516	Shyama Charan v. Commissioner, Rohelkhand Division	(Jan) 11
Rahmat Ullah v. State	(Apr) 165	Shyama Charan v. State	(Feb) 61
Raja Ram Kumar Bhargava v. State of Uttar Pradesh	(Dec) 604	Shyam Lal v. State	(Apr) 183
Rajendra Prasad Oil Mills, Kanpur v. Smt. Chunni Devi	(Jan) 1 (FB)	Sita v. State of U. P.	(Jul) 342 (FB)
Raj Kumar v. Vijaya Kumar	(Apr) 162	State v. Banshidhar	(Apr) 184
Raj Kumar Manohar Lal v. Union of India	(Oct) 472	State of Uttar Pradesh v. Kashi Prasad Saksena	(Jul) 363
Ramanand Sadanand Gairola v. Union of India	(Aug) 370	State of U. P. v. Sure	(May) 245 (FB)
Rama Shankar v. Mst Hubraji	(Aug) 407	State of Uttar Pradesh v. Dr. Prem Behari Lal Saxena	(Sep) 449 (FB)
Ram Awalamb v. Jata Shankar	(Nov) 526 (FB)	State of U. P. v. Ram Sevak	(Oct) 512
Ramchand & Sons Sugar Mills Pvt. Ltd. v. Commissioner of Income-tax U. P. Lucknow	(Aug) 383	Suraj Bhan Pande v. State of U. P.	(Nov) 560
Ram Chandra v. State of Uttar Pradesh	(Oct) 480	Suraj Narain Shukla v. Superintendent Central Excise, Varanasi	(Nov) 524
Ram Dass v. State	(Mar) 109	Sushil Chander Anand v. State of U. P.	(Jun) 317
Ram Dulari Saran v. Sri Yogeshwar Sri Ram Balbhacharya Ji	(Feb) 68	Tandon Sugar Works, Shahjahanpur v. Uttar Pradesh Financial Corporation, Kanpur	(Sept) 419
Ram Ghulam v. Smt Dalloo	(Aug) 409	Union of India v. Ali Ahmad	(Nov) 518 (FB)
Ram Gopal Gupta v. Assistant Housing Commissioner	(Jun) 278 (FB)	Union of India v. Hari Om	(Nov) 542
Ram Murti v. Sri Subedar	(Feb) 65	Varanaseya Sanskrit Vishwa Vidyalaya v. Jagdish Narain	(Aug) 378 (FB)
Ram Rattan Prem Nath v. Commissioner of Income tax, U. P. Lucknow	(Aug) 375	Vidya Datta v. Jagmandar Das	(Jan) 31
Ram Swarup v. Mahabir Prasad	(Sept) 440	Virendra Swarup v. President of India	(Feb) 56
Regional Transport Authority, Lucknow v. Mohammad Usman Ali	(Jul) 365 (FB)	Vithaldas Kedar Nath v. Income Tax Officer District II (ii) Kanpur	(Aug) 390
Sant Das Maheshwari v. Babu Ram Jodoun	(Sep) 436	Vivekanand Nand v. State	(Apr) 189
Sarla Devi Smt. v. Balwan Singh	(Dec) 601	Zila Parishad, Muzaffarnagar v. Jugal Kishore Ram Swarup	(Jan) 40 (FB)

* SUBJECT INDEX

Administration of Evacuee Property Act (31 of 1950), S. 10 (2) (o) — Expression "in any manner whatsoever" — Meaning of — Transfer of Property Act applies — Title to property passes on execution of registered sale-deed or delivery of possession as the case may be (Nov) 554

Advocates Act (25 of 1961), Ss. 50 (2), 55 and 58 (4) (as inserted by Act 14 of 1962) — Legal Practitioners Act (1879), Ss. 6, 7 — Repeal of certain provisions of Act — High Court's power to admit pleaders or renew certificates of existing one abro-

Advocates Act (contd.)

gated with effect from 1-12-1961

(Mar) 112

—S. 55 (as inserted by Act 14 of 1962) — Section does not preserve the right to practise for a person who is not lawfully admitted as a pleader — See Advocates Act (1961), S. 50 (2)

(Mar) 112

—S. 58 (4) (as inserted by Act 14 of 1962) — Repeal of certain provisions of Act — High Court's power to admit pleaders or renew certificates of existing ones abrogated with effect from 1-12-1961 — See Advocates Act (1961), S. 50 (2)

(Mar) 112

Allahabad High Court Rules

See under High Court Rules and Orders.

Allahabad Rules of Court (1952)

See under High Court Rules and Orders.

All India Services Act (61 of 1951)

See under Civil Services.

Arbitration Act (10 of 1940), S. 20 — Application under Art. 181, Limitation Act (1908) does not apply. AIR 1957 All 206 Overruled; AIR 1952 Punj 423 and AIR 1954 Cal 164 held no longer good law in view of AIR 1967 SC 990 — See Limitation Act (1908), Art. 181

(Nov) 518 (FB)

Bengal, Agra and Assam Civil Courts Act (12 of 1887), S. 4 — Courts created under are all Civil Courts — Classing some as Additional Civil Judge is only administrative convenience — See Civil P. C. (1908), S. 38

(Nov) 551A

Central Excises and Salt Act (1 of 1944), Ss. 12, 35 — U. P. Government Notification No. 69/59/F. N. 35/15/58 CH-I dated 18-7-1959 issued under S. 12 — Validity — Notification requiring appellant to deposit duty levied by Superintendent of Central Excise, prior to filing appeal — Requirement is ultra vires S. 12 — Failure to deposit duty levied by Superintendent — Rejection of appeal on that ground is illegal

(Nov) 524

—S. 35 — Notification under S. 12 — Appellant required to deposit duty levied, prior to filing appeal — Notification ultra vires under S. 12 — Failure to deposit — Appeal cannot be rejected on that ground — See Central Excises and Salt Act (1944), S. 12

(Nov) 524

Central Sales Tax Act (74 of 1956)

See under Sales Tax.

Citizenship Act (57 of 1955), S. 9 (1) — Person entering India before commencement of Act (1955) cannot be deemed foreigner at time of his entry — See Foreigners Act (1946), S. 2 (a)

(Apr) 165 E

Citizenship Act (contd.)

—S. 9 (2) — Nature and validity of order under the section — See Constitution of India, Art. 77 (1)

(Apr) 165 A

—S. 9 (2) — Decision as to citizenship by Central Government — When final— See Citizenship Rules (1956), R. 30

(Apr) 165B

—S. 9 (2) — Decision as to citizenship by Central Govt. — Framing of charge under S. 14 prior to communication of order under R. 30 to accused — Proceedings are not vitiated — See Foreigners Act (1946), S. 14

(Apr) 165C

—S. 9 (2) — Citizenship Rules (1956), R. 30 — Scope of — Suit for injunction restraining Government from deporting plaintiff alleging himself to be citizen of India is not barred — What is barred is decision by Court of question whether plaintiff has acquired foreign citizenship — Procedure, when such question arises in suit, to be followed, indicated

(May) 223 A

—S. 9 (2) — Citizenship Rules (1956), R. 30 — Decision of question whether person has acquired foreign citizenship is judicial — Presumption arising out of voluntarily obtaining foreign passport — Person affected must be given reasonable opportunity to rebut presumption—Ordinarily person must be given personal hearing — Official deciding case must not act upon notes prepared by other officials of the department — Constitution of India, Art. 226 — Natural justice

(May) 223 C

Citizenship Rules (1956), R. 30 — Nature and validity of order under — See Constitution of India, Art. 77 (1)

(Apr) 165 A

—R. 30 — Decision under by Central Government as to citizenship — Government can be said to have taken decision by date necessary steps are taken to communicate it to person concerned and when order has gone out of precincts of the office

(Apr) 165 B

—R. 30 — Framing of charge under S. 14 prior to communication of order under R. 30 to accused — Proceedings are not vitiated — See Foreigners Act (1946), S. 14

(Apr) 165 C

—R. 30 — Scope of — Suit for injunction restraining Government from deporting plaintiff alleging himself to be citizen of India is not barred by S. 9 (2) of Citizenship Act (1955) — What is barred is decision by Court of question whether plaintiff has acquired foreign citizenship — See Citizenship Act (1955), S. 9 (2)

(May) 223 A

—R. 30, Sch. III, Cl. (3) — Person leaving India and staying in Pakistan for five

Citizenship Rules (contd.)

years and coming to India on Pakistani passport — Allegation by him that he had gone to Pakistan temporarily and that he was compelled to obtain Pakistan passport in order to be by the side of his father in India who was very seriously ill and practically on death-bed — Held that acquisition of passport was voluntary — An act to be involuntary must be the result of legal obligation — Desire to be present at a particular place does not create legal obligation — Word "voluntarily" means that the person obtaining the passport acted of his own volition and knew the nature of his act, and did not act in performance of a legal duty, nor due to coercion, or fraud, or misrepresentation, or mistake.

(May) 223 B

—R. 30 — Decision of question whether person has acquired citizenship is judicial — Authority hearing case must apply its own mind and not rely upon any other officials' opinion or notes or comments — See Citizenship Act (1955), S. 9 (2)

(May) 223C

—Sch. III, Cl. (3) — Acquisitions of citizenship of foreign country — Presumption under — Person obtaining Pakistani passport with the object of coming to India to see his ailing father — Presumption is that he had voluntarily acquired citizenship of Pakistan — See Citizenship Rules (1956), R. 30

(May) 223B

Civil Procedure Code (5 of 1908), Preamble — Interpretation of Statutes — Statement of objects and reasons and Parliamentary debates can be looked into for ascertaining the intention of legislature, the mischief which the statute was enacted to suppress and the prevailing conditions when it was enacted

(Jan) 43A

—Pre. — Interpretation of Statutes — Meaning of words — Words take their colour and contents from their context which include other enacting provision, the preamble, the existing law and the mischief which the Act was designed to remove — See Tenancy Laws — U. P. Government Estates Thekedari Abolition Act (1958) (1 of 1959) S. 3

(Jan) 43B

—Pre. — Interpretation of Statutes — Proviso — Positive independent provision

(Jan) 43C

—Pre. — Interpretation of Statutes — Meaning of words — Same words used in two different provisions in same Act — Words must be given same meaning in both provisions

(Feb) 56B

—Pre. — Interpretation of Statutes — Constitutional law — Marginal note in Constitution is part of Constitution and

Civil P. C. (contd.)

furnishes clue to meaning and purpose of Article

(Feb) 56C

—Pre. — Interpretation of Statutes — Constitutional law — Rule of construction

(Feb) 56D

—Pre. — Interpretation of Statutes — Directory or Mandatory provision — Test to decide — See U. P. Motor Vehicles Rules (1940), R. 72

(Mar) 119A

—Pre. — Interpretation of Statutes — Statute dealing with a subject is exhaustive on the subject — No relief not contemplated thereby can be given

(Mar) 142C

—Preamble — Interpretation of Statutes — Meaning of words — Variation in language and absurdity — See Municipalities — U. P. Municipalities Act (2 of 1916), S. 160

(Apr) 177A

—Pre. — Interpretation of Statutes — Directory and Mandatory provisions — See Houses & Rents — U. P. Industrial Housing Act (U. P. Act No. 23 of 1955), S. 21 (1)

(Jun) 278B (FB)

—Pre. — Interpretation of Statutes — Language of statute itself not clear — Legislative intent to be gathered from its provisions read as a whole together with the purpose of the enactment bearing in mind the malady which it was designed to cure

(Jul) 342B (FB)

—Preamble — Interpretation of Statutes — Mandatory and directory provisions — Construction of — (Interpretation of Statutes — Mandatory and directory provisions)

(Aug) 390B

—Pre. — Interpretation of Statutes — Interpretation of constitution — Literal construction not always helpful — Principle underlying must be understood — See Constitution of India, Preamble

(Aug) 414B (FB)

—Pre. — Interpretation of Statutes — Special and General provisions — See Civil P. C. (1908), S. 48

(Sep) 441A (FB)

—Pre. — Interpretation of Statutes — Statute ousting civil Court's jurisdiction — See Civil P. C. (1908), S. 9

(Nov) 526C (FB)

—Preamble — Interpretation of Statutes — Validating Act is not invalid because it validates actions already declared invalid — See Constitution of India Art. 233A

(Dec) 594C (FB)

—Preamble — Judicial precedents — Principles as to — Decision without reason can hardly be a precedent — Decision of Division Bench of High Court of Allahabad (old) prior to 1948 — Entitled to great respect and value

(Apr) 162A

Civil P. C. (cond.)

—Pre. — Judicial Precedents — Construction put upon a provision of Act by judicial decisions — Not affected by subsequent amendment of other unconnected provision of the Act — See Limitation Act (1908), Art. 181

(Nov) 518 (FB)

—Pre. — Precedents — Judgment affirmed in appeal — Determination of ratio decidendi (Jul) 342H (FB)

—Ss. 2 (2), 47, Order 23, Rule 3 — Conditional decree — Compromise decree — Construction — Principle governing construction of contract applicable — Compromise instalment decree — Obligation on decree-holder to get certain pending appeal dismissed within definite period — Default — Suit must be deemed to have been dismissed — Decree held unexecutable — Applicability — (Contract Act (1872), Sec. 10) — AIR 1931 Nag 54, Dissent from (Jun) 296 (FB)

—Ss. 2 (2) & 2 (14) — Decision or Decree is different from finding — Finding by Munsiff under S. 332 of U. P. Act 1 1951 is not decision — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (1 of 1951), S. 332

(Aug) 407

—S. 9 — Court deciding status of caste in Hindu society — Nature of its jurisdiction (Feb) 68B

—S. 9 — Eviction of allottee — Right to file Civil Suit is not taken away by S. 21 of U. P. Industrial Housing Act 1955 — See Houses & Rents — U. P. Industrial Housing Act (U. P. Act No. 23 of 1955), S. 4 (Jun) 278C (FB)

—Ss. 9, 20 and Pre. — U. P. Zamindari Abolition and Land Reforms Act 1950 (1 of 1951), Ss. 331 and 209 — Bar of jurisdiction of Civil Court — Tests indicated — Suit for demolition and possession in respect of agricultural land, against trespasser — Civil Court has jurisdiction — Effect of asking discretionary relief — 1965 All LJ 1137, Overruled

(Nov) 526C (FB)

—S. 10 and O. 6, R. 17 — Suit stayed under S. 10 — Amendment of plaint adding a defendant in suit can be allowed

(Oct) 479

—S. 11 — Principle of res judicata — Applicability to proceedings before consolidation authorities under U. P. Consolidation of Holdings Act (5 of 1954)

(Jul) 342E (FB)

—S. 11 — S. 12 (7), U. P. Consolidation of Holdings Act cannot be used to cut down application of doctrine of res judicata — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), S. 12 (7) (July) 342F (FB)

—S. 11 — Finding by Munsiff under S. 332 of U. P. Act, 1 of 1951 is not final decision — Does not operate as res judicata — See Tenancy Laws — U. P. Zamindari

Civil P. C. (contd.)

Abolition and Land Reforms Act (1 of 1951), S. 332 (Aug) 407

—S. 11 — Prior writ petition under Art. 226 for quashing the disciplinary proceeding against petitioner, on the ground of absence of reasonable opportunity to meet the allegations dismissed — Subsequent suit for declaration of dismissal as ultra vires and illegal — Only that issue will be res judicata which was raised and decided after contest by High Court in writ petition

(Oct) 466A

—S. 11 — Applicability — Section only applies to suits and appeals arising out of them (Oct) 504A (FB)

—S. 11 — 'Heard and finally decided' — Expression shows that it is decision and not decree that creates bar of res judicata — Res judicata is estoppel by judgment or record and not by decree — AIR 1965 All 280 & AIR 1941 All 277 & (1910) 7 All LJ 861 (FB) & (1910) 7 All LJ 995, Overruled

(Oct) 504B (FB)

—S. 11 — Cross suits — Consolidation and disposal by one judgment — Two decrees prepared—No appeal filed against decree dismissing one suit — Appeal against decree in the other suit held not barred by res judicata. (1910) 7 All LJ 861 (FB) and (1910) 7 All LJ 995 and AIR 1941 All 277, Overruled; AIR 1923 Cal 496 & AIR 1956 Orissa 68 Diss. from; AIR 1946 Oudh 33 (FB) held no longer good law in view of AIR 1966 SC 1332

(Oct) 504C (FB)

—S. 11 — Execution application filed in time wrongly returned — Wrong order not challenged — Fresh application is not barred — See Limitation Act (1908), S. 14

(Nov) 551B

—S. 20 — Cause of action — What is — See Civil P. C. (1908), S. 9

(Nov) 526C (FB)

—S. 20 (c) — Allahabad High Court has no jurisdiction to entertain petition for quashing orders where no part of cause of action arose within its territorial jurisdiction — Place of communication of order according to law or of consequence arising from order — If furnishes cause of action — See Constitution of India, Art. 226 (1A)

(Mar) 105A

—S. 38, O. 21, R. 10 — Application for execution of decree passed by Additional Civil Judge — Presentation of, in Court of Civil Judge is proper. AIR 1952 Pat 4, Dissented from (Nov) 551A

—S. 47 — Conditional decree — Compromise decree — Construction — See Civil P. C. (1908), S. 2 (2)

(June) 296 (FB)

—S. 47 — Execution filed beyond twelve years — Absence of acknowledgment by

Civil P. C. (contd.)

judgment-debtor — S. 20, Limitation Act (1908) cannot extend period — See Limitation Act (1908), S. 20

(Sep) 441B (FB)

—S. 48 — Section does prescribe a period of limitation — Section is a special law contained within General Law— Limitation Act (1908), Ss. 29 (2), 20, Art. 182 — Applicability of S. 29 (2) — Period of limitation in S. 48 C. P. C. cannot be extended under S. 20, Limitation Act

(Sep) 441A (FB)

—S. 48 — Special period in S. 48 cannot be extended under S. 20 Limitation Act (1908) — See Limitation Act (1908), S. 20

(Sep) 441B (FB)

—S. 80 — Suit for declaration of title and possession decreed — State Government impleaded as pro forma defendant being tenant of property, not putting in appearance — Want of notice under S. 80 — Plea as to — Cannot be raised by private individual to assail the decree — State Government by non-appearance must be deemed to have waived the pleas

(Apr) 161

—S. 92, O. 8, R. 2 — Principles of Clauses (1) and (2) of Section 92 apply to defence also — Suit not under Section 92 — Special defence — Plea requiring Court to enter into questions covered by provisions of Section 92 — Cannot be entertained

(Dec) 571E

—S. 96 — Finding by Munsiff under Section 332 of U. P. Act 1 of 1951 — Not applicable — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (1 of 1951), S. 332

(Aug) 407

—S. 100 — Erroneous finding as to sufficiency of cause for delay in filing appeal after accepting facts alleged — Error of law — Interference in second appeal is permissible — See Limitation Act (1963), S. 5

(May) 210

—S. 100 — Question whether factory is reasonable or one covered by Para 26 of Employees' Provident Fund Scheme is question of fact — See Constitution of India, Article 226

(Sep) 432A

—Ss. 100, 101 — Question of fact, when not binding in second appeal — Reasonable opportunity, whether afforded to delinquent servant — Decision of lower Court, based on misreading of documents and erroneous view of scope of Article 311 — Decision not binding in second appeal

(Nov) 542A

—S. 115 — Reference to Civil Court under Section 146 (1), Criminal P. C. — Civil Court refusing to summon deponent of affidavit filed before Magistrate for being cross-examined — It is "case decided" in Civil Court subordinate to High Court — Decision directly affects

Civil P. C. (contd.)

Court's jurisdiction and is revisable

(Feb) 82B

—S. 115 — Illegality or material irregularity in exercise of jurisdiction — Case is covered by Clauses (b) and (c) of section — See Civil P. C. (1908), Order 21, Rule 58, Proviso

(Mar) 139

—S. 115 — Powers of Court — Question as to age of minor plaintiff — Defendant not raising any objection in Court below to admissibility of certified copy of application filed by minor's mother under Guardians and Wards Act and to certificate of guardianship — He cannot question admissibility of such documents in revision

(Apr) 162C

—S. 115 — "Sufficient cause" — Erroneous finding as to sufficiency of cause after accepting facts alleged — Error of law — Interference in revision is permissible — See Limitation Act (1963), Section 5

(May) 210

—Ss. 121 and 128 — "Body of the Code" in Section 128 — Expression refers to only sections of the Code and not to first Schedule and the Rules framed thereunder

(Mar) 142B

—S. 122 and O. 39, R. 2A and O. 43, R. 1 (r) (as amended by Allahabad High Court) — Rules as amended are valid — High Court competent to make such rules under Section 122 — Power not confined strictly to rules of procedure

(Aug) 400

—S. 127 — Remand — Reference to Section 351 in Section 13 of Court-fees Act — Must be construed as a reference to Order 41, Rule 23, C. P. C. 1908 — See Court-fees and Suits Valuations — Court-fees Act (1870), Section 13

(Mar) 142A

—S. 128 — Remand — Reference to Section 351 in Section 13 of Court-fees Act must be construed as reference to Order 41, Rule 23, C. P. C. (1908) — See Court-fees and Suits Valuations — Court-fees Act (1870), Section 13

(Mar) 142A

—S. 128 — "Body of Code" — Refers to only sections of the Code and not to First Schedule — See Civil P. C. (1908), Section 121

(Mar) 142B

—S. 158 — Remand — Reference to Section 351 in Section 13, Court-fees Act — Must be construed as a reference to Order 41, Rule 23, C. P. C. (1908) — See Court-fees and Suits Valuations — Court-fees Act (1870), Section 13

(Mar) 142A

—O. 1, R. 10 — Rule-making authority has power to frame rules prescribing the period for limitation for filing appeal and also the manner including array of parties — See U. P. Motor Vehicles Rules (1940), R. 72

(Mar) 119A

—O. 1, R. 10 — Party — Suit brought in the name of society through its secretary who was named — Suit as laid is

Civil P. C. (contd.)

- valid — See Societies Registration Act (1960), S. 6 (May) 248G
- O. 3, R. 4 — Estoppel against statute — Admission of erroneous opinion on question of law by party's counsel in lower Court — Not binding on that party while seeking relief in appeal — See Evidence Act (1872), S. 115 (Jan) 14C
- O. 6, R. 2 — Plea of want of notice under Section 80 is not open to private individual — State Government pro forma defendant, not putting in appearance — Any objection with regard to notice under Section 80 must be deemed to have been waived — See Civil P. C. (1908), Section 80 (Apr) 161
- O. 6, R. 17 — Amending of plaint by adding defendant can be allowed when suit is stayed under Section 10, Civil P. C. — See Civil P. C. (1908), Section 10 (Oct) 479
- O. 8, R. 2 — Special defence — Suit on basis of contract — Defendant may admit contract and contractual liability and to avoid effect of admission raise plea of frustration or performance (Dec) 571D
- O. 8, R. 2 — Special defence — Suit not under Section 92 — Plea requiring Court to enter into questions covered by Section 92 — Cannot be entertained — See Civil Procedure Code (5 of 1908), Section 92 (Dec) 571E
- O. 15, Rr. 1, 4 — No evidence need be led by any party on a point which is not in issue (May) 248B
- O. 15, R. 4 — No evidence need be led by any party on point not in issue — See Civil P. C. (1908), O. 15, Rule 1 (May) 248B
- O. 19 — Evidence in Section 146 (1-A), Cr. P. C. includes affidavit — See Criminal P. C. (1898), Section 146 (Feb) 82A
- O. 21, R. 10 — Decree passed by Additional Civil Judge — Presentation of application for execution in Court of Civil Judge is proper. AIR 1952 Pat 4, Dissented from. — See Civil P. C. (1908), Section 38 (Nov) 551A
- O. 21, R. 11 (2) (j) — Orders enumerated in sub-clause 'J' — Sec. 48 precludes from making such orders — See Limitation Act (1908), Section 20 (Sep) 441B (FB)
- O. 21, R. 58, Priviso and S. 115 — "Objection designedly or unnecessarily delayed" — There must be evidence on record to that effect — Dismissal of objection without evidence — Illegality and material irregularity in exercise of jurisdiction — Case covered by sub-sections (b) and (c) of Section 115 (Mar) 139
- O. 21, R. 89 — Date of allowing application is date from which limita-

Civil P. C. (contd.)

- tion commences. — AIR 1936 Mad 782 and AIR 1954 Mad 185 and AIR 1957 Orissa 224, Dissented from. — See Limitation Act (1908), Article 99 (Aug) 409B
- O. 21, R. 90 (as amended by All. High Court) — Word "entertained" in proviso to Order 21, Rule 90 — Meaning — See Sales Tax — U. P. Sales Tax Act (15 of 1948), Section 9 (1) (Apr) 200A (FB)
- O. 21, Rr. 97, 99 — Obstruction to delivery of possession — Application by decree-holder for delivery of possession with aid of police — Application is under Rule 97 (1) — Court has to follow procedure laid down in Rule 97 (2) and objections filed to application by objector in his own right are to be heard (Sep) 440
- O. 21, R. 99 — Requirements of — See Civil P. C. (1908), O. 21, R. 97 (Sep) 440
- O. 23, R. 3 — Compromise decree — Construction of — Principles governing construction of contract applicable — See Civil P. C. (1908), Section 2 (2) (Jan) 296 (FB)
- O. 29, R. 1 — Suit in the name of society through secretary who was named — Suit as laid is valid — See Societies Registration Act (1960), Section 6 (May) 248G
- O. 30, R. 1 — Death of partner before suit — A was registered partnership firm of which B and C were two partners — A entered into contract with D in 1950 for supply of hemp rope cuttings — In 1951 B died — After B's death, his son was taken as partner in the firm — In 1954 A filed suit for damages for breach of contract through C — Held, that suit as framed by A was not maintainable, since son of B was not partner when contract was entered into and since on death of B, the firm stood dissolved — (Partnership Act (1932), Section 42) (Mar) 129
- O. 30, R. 10 — 'Person' — Expression covers a limited Company even though such Company is carrying on the business in name or style other than its own (Jan) 1 (FB)
- O. 39, R. 2-A (as amended by Allahabad High Court) — Amended rule is within competence of High Court — See Civil P. C. (1908), Section 122 (Aug) 400
- O. 41, R. 20 — Appeal under Sec. 64, M. V. Act — Limitation — Rule making authority has power to frame rules prescribing period within which to file appeal and its manner — See U. P. Motor Vehicles Rules (1940), R. 72 (Mar) 119A
- O. 41, R. 22 — Registrar cannot admit appeal in view of Rule 9, Chap. 11.

Civil P. C. (contd.)

Allahabad High Court Rules — Order for admission is done by the Court — Limitation for filing cross-objection runs from the date of admission by the Court — See High Court Rules and Orders — Allahabad High Court Rules, Chapter XI, R. 9 (May) 248A

—O. 41, R. 23 (as amended in U. P.) — Remand in appeal — Refund of Court fees — Reference to Section 351 in Section 13, Court-fees Act — Must be construed as reference to Order 41, R. 23 — See Court-fees and Suits Valuations — Court-fees Act (1870), Section 13 (Mar) 142A (FB)

—O. XLIII, R. 1 (r) (as amended by Allahabad High Court) — Amended rule is within competence of High Court — See Civil P. C. (1908), Sec. 122 (Aug) 400

Civil Services (Classification, Control and Appeal) Rules (1930)

See under Civil Services.

CIVIL SERVICES

—All India Services Act (61 of 1951), S. 3 — Indian Forest Service (Recruitment) Rules (1966), Rule 4 — Indian Forest Service (Initial Recruitment) Regulation (1966), Regns. 3, 5, 4 — Creation of Indian Forest Service — Constitution of Selection Board — Preparation of List of suitable officers for appointment to service — Adjudging suitability of candidates — Rule 4 does not require any regulation to be framed with this regard — Suitability can be determined by assessment of candidate's merit by selecting authority (Aug) 370A

—S. 3 — Indian Forest Service (Cadre) Rules (1966), Rule 4 (1) — Indian Forest Service (Initial Recruitment) Regulations (1966), Reg. 5 — Creation of Indian Forest Service — Non-inclusion of persons in approved list — Recording of reasons is not necessary (Aug) 370B

—S. 3 — No rule in Indian Forest Service (Recruitment) Rules (1966) is beyond scope of Section 3 — See Constitution of India, Article 16 (Aug) 370C

—S. 3 (as amended in 1966) — Section does not require Regulations but only the Rules to be placed before the Lok Sabha or Rajya Sabha (Aug) 370D

—S. 3 (as amended in 1966) — Indian Forest Service (Cadre) Rules (1966), R. 1 — Indian Forest Service (Recruitment) Rules (1966), Rule 1 — Indian Forest Service (Initial Recruitment) Regulations (1966), Reg. 1 — Rules and regulations are not beyond scope of Section 3 — Consultation with Public Service Commission even if unnecessary is not illegal — (Constitution of India, Article 320 (3)) (Aug) 370E

—S. 3 (as amended in 1966) — Indian Forest Service (Initial Recruitment) Regulations (1966), Reg. 3 — Constitution

Civil Services — All India Services Act (contd.)

of Selection Board — Variation in personnel of Boards from State to State — Inspector General of Forests being member of Board of every State — Adoption of standard to judge suitability of candidates cannot be said to be not uniform (Aug) 370F

—S. 3 (as amended in 1966) — Indian Forest Service (Initial Recruitment) Regulations (1966), Regn. 5 (2) (b) — Words "adjudged suitable for inclusion" in Regn. — Word "adjudged" does not indicate that any judicial process was involved — The expression in rule means "found worthy of selection" — Sending of papers relating to candidates, to members of Board in advance is normal practice — In petition under Article 226 of Constitution, petitioner must prove that this normal practice was not followed (Aug) 370G

—S. 3 — Person officiating in higher post not allowed to continue — No reduction in rank — Constitution of India, Article 309 (Aug) 370H

—Civil Services (Classification, Control and Appeal) Rules (1930), R. 55 — Holding of oral enquiry is not mandatory — Authorities giving ample opportunity to conduct oral enquiry — Delinquent servant not willing to participate — Proceeding not void for want of oral enquiry (Nov) 542B

—R. 55 — Failure to supply copy of investigating officer's report — Technical breach — No violation of procedure under Rule 55 — See Constitution of India, Article 311 (2) (Nov) 542C

—Forest Service (Cadre) Rules (1966), R. 1 — Rule is not beyond scope of Section 3 of All India Services Act (1951) — See Civil Services — All India Services Act (1951), Section 3 (as amended in 1966) (Aug) 370E

—R. 4 (1) — Method of recruitment — Procedure — See Civil Services — All India Services Act (1951), Section 3 (Aug) 370B

—R. 4 (1) — Person officiating as Conservator of Forest — Not eligible to hold post — Can be sent back to substantive post — Constitution of India, Art. 309 (Aug) 370H

—Forest Service (Initial Recruitment) Regn. (1966), Reg. 3 — Inspector General of Forests, and Chief Conservator of Forest in State are proper persons to sit on selection board — See Civil Services — All India Services Act (1951), S. 3 (Aug) 370A

—Reg. 3 — Member of special selection board himself candidate for one post — His withdrawal from Board when his case was under consideration — Procedure in consonance with natural justice

Civil Services — Forest Service (Initial Recruitment), Regn. (contd.)

— See Constitution of India, Art. 16

(Aug) 370C

—Reg. 3 — Special selection Board — Variation of personnel from State to State — Adoption of standards for selection cannot be said to be not uniform — See Civil Services — All India Services Act (1951), S. 3 (as amended in 1966)

(Aug) 370F

—Reg. 4 — Conditions specified must be fulfilled for appointment to posts in junior and senior scales of service — See Civil Services — All India Services Act (1951), Section 3

(Aug) 370A

—Reg. 4 (1) — Rules not permitting continuance of officiation — Person officiating can be sent to substantive post — Constitution of India, Art. 309

(Aug) 370H

—Reg. 5 — Reasons for non-inclusion need not be recorded — See Civil Services — All India Services Act (1951), Section 3

(Aug) 370A

—Reg. 5 — Creation of Indian Forest Service — Non-inclusion of persons in approved list — Recording of reasons is not necessary — See Civil Services — All India Services Act (1951), S. 3

(Aug) 370B

—Reg. 5 — Preparation of select list of officers — Procedure indicated — See Constitution of India Article 16

(Aug) 370C

—Reg. 5 (2) (b) — If reasons for non-inclusion are recorded they must be submitted to Public Service Commission — See Civil Services — All India Services Act (1951), Sec. 3 (as amended in 1966)

(Aug) 370A

—**Forest Service (Recruitment) Rules (1966), R. 1** — Regulation is not beyond scope of Section 3 of All India Services Act (1966) — See Civil Services — All India Services Act (1951), S. 3 (as amended in 1966)

(Aug) 370E

—R. 4 — Rule 4 does not require any regulation to be framed for selection of candidates — See Civil Services — All India Services Act (1951), Section 3

(Aug) 370A

—R. 4 — There can be no regulation for adjudging suitability of candidates — See Constitution of India, Art. 16

(Aug) 370C

—**Fundamental Rules, R. 22** — Rule not applicable to Executive Officers of Municipal Boards in U. P. — See Constitution of India, Art. 309

(Oct) 480A

—R. 22 — Not applicable to Municipal Executive Officers in U. P. — See Constitution of India, Art. 226

(Oct) 480B

—R. 22 — Rule speaks about salary which Government servant last drew and not the one which ought to have been drawn

(Oct) 480C

Civil Services (contd.)

—**U. P. Higher Judicial Service Rules, 1953, R. 5** — Rules are severable — Only rules relating to appointment are invalid due to non-compliance with Article 233 (1) — Rest of the Rules are valid — See Constitution of India, Article 309, Proviso

(May) 230C

—R. 7 — Rules are severable — Only rules relating to appointment are invalid due to non-compliance with Article 233 (1) — Rest of the Rules are valid — See Constitution of India, Article 309, Proviso

(May) 230C

—R. 8 — Rules are severable — Only rules relating to appointment alone are invalid due to non-compliance with Article 233 (1) — Rest of the rules are valid — See Constitution of India, Article 309, Proviso

(May) 230C

—R. 19 — Judicial Magistrate, a pleader for not less than 7 years before his appointment to Higher Judicial Service — He is not already in service of State and is eligible for appointment as District Judge — See Constitution of India, Article 233 (2)

(Dec) 594B (FB)

—**Companies Act (1 of 1956), S. 147** — Limited Company falls within the expression 'person' as used in Order 30, R. 10, C. P. C. — See Civil P. C. (1908), Order 30, Rule 10

(Jan) 1 (FB)

—**Constitution of India, Pre.** — Interpretation of Constitution — Literal construction is not always helpful — Principle underlying the provision must be understood

(Aug) 414B

—Art. 1 (1) and 1 (2) — Sales from dealer in U. P. to dealers in J. and K. State — Would be inter-State sales liable to tax under Central Sales Tax Act — See Sales Tax — Central Sales Tax Act (1956), Section 3

(Nov) 516A

—Art. 14 — U. P. Act 1 of 1959 is completely protected by Article 31-A from being affected by Articles 14, 19 or 31 — See Tenancy Laws — U. P. Thekedari Abolition Act (1958) (1 of 1959)

(Jan) 43E

—Art. 14 — Scope — Even a person acquiring rights under statute can claim benefit of Article 14 to protect his interest under the statute — Question of waiver of fundamental right does not arise — Constitutional right to equality extends also to procedural matters

(Jun) 278D (FB)

—Art. 14 — U. P. Industrial Housing Act (U. P. Act No. 23 of 1955), Sections 21, 4, 7 — Constitutional validity — Existence of alternative methods for eviction; one by civil suit and other by summary action under Section 21 — Discretion to use any method unregulated — Section 21 contravenes Article 14 and is void

(Jun) 278E (FB)

Constitution of India (contd.)

—Art. 14 — A duty to decide upon one of the grounds of eviction so elaborately and specifically set out in Sec. 21 (1) of U. P. Industrial Housing Act 1955 — Requires quasi judicial procedure — Provisions of the sections are hit by Article 14 — See Houses and Rents — U. P. Industrial Housing Act (1955), Sec. 21 (1) (Jun) 278G (FB)

—Art. 14 — Alternative methods of recovery of Government dues — Do not entail serious consequence of eviction and would not invalidate either Sec. 19 or Section 20 of the U. P. Act 23 of 1955 — See Houses and Rents — U. P. Industrial Housing Act (1955), Section 19 (Jun) 278H (FB)

—Art. 14 — Power of Housing Commissioner to determine and fix rent and other charges — Not unconstitutional or void for any reason — See Houses and Rents — U. P. Industrial Housing Act (1955), Section 15 (Jun) 278I (FB)

—Art. 14 — Procedural statute challenged on ground that it is discriminatory — Considerations (Jun) 278K (FB)

—Art. 14 — U. P. Vritti, Vyapar, Ajivika Aur Sevayojan Kar Adhiniyam (21 of 1965), Preamble, Section 3 — Act is not discriminatory and not hit by Article 14 (Jun) 317C (FB)

—Art. 14 — Income-tax Act (1922), Sections 34 (1-A) and 34 (1) (a) — Section 34 (1-A) is not violative of Article 14 — It makes no difference whether action is taken under Section 34 (1) (a) or under Section 34 (1-A) (Aug) 375C

—Art. 14 — (U. P.) Public Moneys (Recovery of Dues) Act (25 of 1965), Section 3 (1) (c) — Clause (c) is not discriminatory (Sep) 419A

—Art. 14 — (U. P.) Public Moneys (Recovery of Dues) Act (25 of 1965), Section 3 (1) (a) and (b) — Clauses (a) and (b) are valid (Sep) 419B

—Art. 14 — Income-tax (Removal of Difficulties) Order (No. 2 of 1963) is not discriminatory in nature — See Income Tax Act (1963), Section 298 (Dec) 566B

—Arts. 16, 226 — Natural justice — In case of necessity principles do not apply — Statute or rules making a person a judge of his own cause — His decision or selection is not vitiated — All India Services Act (1951), Section 3 — Indian Forest Service (Recruitment) Rules (1966), Rule 4 — Indian Forest Service (Initial Recruitment) Regulations (1966), Regs. 3, 5 — Creation of Indian Forest Service — Inspector General of Forests and Chief Conservator of Forest (U. P.) being themselves candidates for entry into the service participating in

Constitution of India (contd.)

proceedings of Selection Board — At the time of consideration of their selection, each withdrawing from Board — Held, they had not been judges of their own cause and there had been no discrimination in recruitment to service within Article 16 (Aug) 370C

—Art. 19 — U. P. Act 1 of 1959 is completely protected by Article 31-A from being affected by Articles 14, 19 or 31 — See Tenancy Laws — U. P. Thekedari Abolition Act (1958) (1 of 1959) (Jan) 43E

—Arts. 19, 31, 358 — U. P. Vritti, Vyapar, Ajivika Aur Sevayojan Kar Adhiniyam (21 of 1965), Preamble — Adhiniyam passed after enforcement of emergency — Absence of provision for making reference to High Court on question of law — No appeal provided against order of assessment in respect of escaped income — Act cannot be said to be hit by Article 19 (1) (f) and (g), as also by Article 31, as these articles have no application to the case (Jun) 317E (FB)

—Art. 19 (1) (f) — A month to month tenancy right in State-built houses obtained by industrial worker, after grant of application for it — Is not so unsubstantial, as to be beyond the constitutional concept of 'property' — A right to property guaranteed by Art. 19 (1) (f) can be reasonably restricted but cannot be taken away altogether by law — See Houses and Rents — U. P. Industrial Housing Act (1955), Section 21 (1) (Jun) 278G (FB)

—Art. 19 (1) (f) and (g) — Objectionable article in journal — No possibility of separating it or obliterating it out of rest — Forfeiture of entire journal — No right to enjoy property is involved — See Defence of India Act (1962), Section 44 (Nov) 548B

—Art. 25 — Section 295-A, Penal Code, (1860) does not violate Articles 25 and 26 of the Constitution — Rights under those Articles are subject to public order, morality and health — See Penal Code (1860), Section 295-A (Sep) 436C

—Art. 26 — Section 295-A, Penal Code (1860), does not violate Articles 25 and 26 of the Constitution — Rights under those Articles are subject to public order, morality and health — See Penal Code (1860), Section 295-A (Sep) 436C

—Art. 31 — U. P. Government Estates Thekedari Abolition Act, 1958 applies not only to Thekedars but also to cultivating lessees on Government Estates — Notification abolishing Estates without applying Reforms Act is an act of bad faith — Notification must be quashed — See Tenancy Laws — U. P. Government

Constitution of India (contd.)

Estates Thekedari Abolition Act (1958), (1 of 1959), Section 3 (Jan) 43B

—Art. 31 — U. P. Thekedari Abolition Act 1958 is completely protected by Article 31-A from being affected by Articles 14, 19 or 31 — See Tenancy Laws — U. P. Thekedari Abolition Act (1958) (1 of 1959) (Jan) 43E

—Art. 31 — Word 'benefit' in Article 276 (1) is not used in the sense of public purpose as used in this Article — See Constitution of India, Article 276 (1) (Jun) 317B (FB)

—Art. 31 — Act passed after enforcement of Emergency — Absence of making reference to High Court on question of law — Act not hit by the Article — See Constitution of India, Article 19 (Jun) 317E (FB)

—Art. 31-A, Proviso 2 — Abolition of leases on Government Estates by U. P. Act 1 of 1959 — Provisions are void under Article 31-A, Second Proviso, inasmuch as Act does not seek to provide compensation at market rate — See Tenancy Laws — U. P. Thekedari Abolition Act 1958 (1 of 1959), S. 3 (Jan) 43D

—Art. 31-A — U. P. Thekedari Abolition Act 1958 is completely protected by this Article from being affected by Articles 14, 19 and 31 — See Tenancy Laws — U. P. Thekedari Abolition Act (1958) (1 of 1959) (Jan) 43E

—Art. 31-A — Articles 31-A and 31-B were inserted in Constitution in order to get over difficulties created by decisions of Courts — See Constitution of India, Article 233-A (Dec) 594C (FB)

—Art. 31-B — Articles 31-A and 31-B were inserted in Constitution in order to get over difficulties created by decisions of Courts — See Constitution of India, Article 233-A (Dec) 594C (FB)

—Art. 77, (1) — Citizenship Act (1955), Section 9 (2) — Citizenship Rules (1956), Rule 30 — Order under Section 9 (2) and Rule 30 — Nature and validity of — Executive order within meaning of Article 77 (1) is valid though passed in name of Central Government and not President (Apr) 165A

—Art. 141 — Observations of Supreme Court in AIR 1968 SC 488 as to manner of furnishing proof of payment of deposit — Not obiter and are binding on the Court — See Sales Tax — U. P. Sales Tax Act (15 of 1948), S. 9 (1) (Apr) 200A (FB)

—Art. 141 — Scope — Article remains unaffected by amendments to Constitution (May) 230E

—Art. 141 — Even obiter dictum of Supreme Court is binding on High Court (Jun) 304C (FB)

Constitution of India (contd.)

—Art. 141 — Supreme Court holding Section 298 of Income-tax Act, 1961, as valid in AIR 1968 SC 162 — Question of excessive delegation of powers not argued in that case — Courts are even then bound to proceed on basis that Section 298 is valid (Dec) 566A

—Art. 141 — Article 141 does not take away Parliament's power to amend Constitution — See Constitution of India, Article 233-A (Dec) 594C (FB)

—Art. 142 — Validity — Article 233-A (as inserted by 20th Amendment) — Amendment is invalid in so far as it validates appointment of parties to AIR 1966 SC 1987 — See Constitution of India, Article 233-A (May) 230D

—Art. 142 — Inserting Article 233-A in Constitution has not the effect of amending Article 142 or Article 144 — AIR 1969 All 230, **Reversed** — See Constitution of India, Article 233-A (Dec) 594C (FB)

—Art. 144 — Validity — Article 233-A (as inserted by 20th Amendment) — Amendment is invalid in so far as it validates appointment of parties to AIR 1966 SC 1987 — See Constitution of India, Article 233-A (May) 230D

—Art. 144 — Inserting Article 233-A in Constitution has not the effect of amending Article 142 or Article 144 — AIR 1969 All 230, **Reversed** — See Constitution of India, Article 233-A (Dec) 594C (FB)

—Art. 183 (a) — Scope — Representation of the People Act (1951), Sections 74, 67-A, 157 — Notification under Sec. 74 — Effect of — Object of Section 67-A — Commencement of term — Deputy Chairman of legislative Council ceasing to be member by virtue of his election in 1962 and again becoming member by virtue of his election in 1968 — Notionally there was a break in the eye of law (Feb) 56A

—Art. 191 — State Legislature Members Prevention of Disqualifications Act (U. P. Act 19 of 1951), Section 3 — State Legislature Members (Prevention of Disqualifications) (Second) Act (U. P. Act 13 of 1952), Section 3 (2) — Person appointed as Adjutant under executive orders in force prior to coming into force of U. P. Home Guards Adhiniyam (29 of 1963) — He holds 'an office of profit' within meaning of Article 191, under Government of Uttar Pradesh — He is not exempted from disqualification attached to his office either under U. P. Act 19 of 1951 or under Act 13 of 1952 (Feb) 88B

—Art. 191 — U. P. Zamindari Abolition and Land Reforms Act (1 of 1951), Section 127-B — U. P. Zamindari Abolition and Land Reforms Rules 1952, R. 114 — State Legislature Members (Preven-

Constitution of India (contd.)

tion of Disqualifications) Act (U. P. Act 19 of 1951), Section 3 — State Legislature Members (Prevention of Disqualifications) (Second) Act (U. P. Act 13 of 1952), Section 3 (2) — Panel lawyer of Gaon Sabhas at Tahsil Head-quarters — He holds an office of profit under Government within meaning of Article 191 — Not exempted under U. P. Act 19 of 1951 and U. P. Act 13 of 1952

(Feb) 88C

—Article 226 — Motor Vehicles Act (1939), Section 48 — Rejection of two applications for permits by R. T. A. — Unsuccessful applicants filing two appeals therefrom — Tribunal remanding both appeals by common order — Joint writ petition by aggrieved applicants against order in appeal is maintainable, W. P. No 1827 of 1963, D/- 3-3-1966 (All), Reversed

(Jan) 14A

—Article 226 — Use of discretionary power by executive — Could be validly exercised within the language of the law, as circumscribed by its purpose and policy — See Tenancy Laws — U. P. Government Estates Thekedari Abolition Act (1958) (1 of 1959), Section 3

(Jan) 43B

—Article 226 — Natural Justice — Enquiry under Rule 13 of Notaries Rules 1956 — Opportunity of being heard should be given — See Notaries Act (1952), S. 10

(Apr) 195A

—Article 226 — Mala fide — Notaries Act (1952), Sections 10, 5 — Earlier notification quashed by judgment of High Court in special appeal — Delay in issue of certificate to practice as a Notary signed much earlier — No inference that Government acted mala fide deliberately with view to deprive a Notary Public of his right to practise as a Notary

(Apr) 195D

—Art. 226 — Natural justice — Presumption arising out of voluntarily obtaining foreign passport — Person affected must be given reasonable opportunity to rebut presumptions — See Citizenship Act (1955), S. 9 (2)

(May) 223C

—Article 226 — Motor Vehicles Act (1939), Sections 47, 62, 68-G — Rival operator challenging by writ petition temporary permit granted to another operator — He is entitled to maintain petition — Civil Misc. Writ No. 1870 of 1961, D/- 5-10-1962 (All) and Civil Writ Misc. No. 70 of 1967, D/- 10-3-1967 (All), Overruled

(Jun) 269B (FB)

—Art. 226 — Natural justice — Administrative quasi-judicial action — Duty to prosecute and to decide must be performed by different officers — Housing Commissioner under Section 21 (1), Uttar Pradesh Industrial Housing Act, acts quasi-judicially — Section 21 (1) violates principles of natural justice, inasmuch as

Constitution of India (contd.)

authority to prosecute and decide is the same

(Jun) 278F (FB)

—Art. 226 — A fundamental right to procedural protection exists — See Houses & Rents — U. P. Industrial Housing Act (1955), S. 21 (1)

(Jun) 278G (FB)

—Art. 226 — Natural justice — Order under S. 21 (1), U. P. Industrial Housing Act (23 of 1955) — Reasonable opportunity to be heard

(Jun) 278L (FB)

—Art. 226 — Natural justice — Opportunity of being heard — See Houses & Rents — U. P. Industrial Housing Act (1955) S. 21 (1)

(Jun) 278N (FB)

—Arts. 226, 227 — U. P. Consolidation of Holdings Act (5 of 1954), Ss. 23, 52, 48, 47 (as amended in 1958 and 1963) — Scope — Confirmation of proposals under S. 23 does not deprive High Court of its power under Article 226

(Jun) 304B (FB)

—Article 226 — Natural justice — Member of Selection board — Himself candidate for one post — His withdrawal from board when his case came for consideration — No breach of principles of natural justice — See Constitution of India, Article 16

(Aug) 370C

—Art. 226 — Delay in applying — Condonation of — Grounds for — (Income-Tax Act (1922), S. 35)

(Aug) 390A

—Art. 226 — Income-tax Officer failing in duty to correct mistake in assessment under Section 35, I. T. Act (1922), High Court can issue appropriate directions — See Income Tax Act (1922), S. 35 (1)

(Aug) 390C

—Art. 226 — Other remedies open — Resolution of Mahapalika fixing rates of taxes — Challenge to its validity — Question can be agitated under statutory remedies provided under Adhiniyam — In case order of District Judge is ambiguous it is open to the tax payer to apply to him for clarification of the order — (Municipalities — U. P. Nagar Mahapalika Adhiniyam (2 of 1959), S. 476)

(Aug) 393B

—Art. 226 — New pleas involving questions of facts — Question whether petitioner's factory is a seasonal factory or whether its employees were covered by Para 26 of Employees' Provident Fund Scheme neither raised before nor decided by Regional Provident Fund Commissioner whose decision is final, being questions of fact cannot be raised for first time in writ petition challenging his order

(Sep) 432A

—Art. 226 — Jurisdiction under — When cannot be sought, stated

(Sep) 436A

—Art. 226 — Seizure of stock by police under Section 96 Criminal P. C. — Release of — Application should be made before Magistrate before whom case is

Constitution of India (contd.)

- pending — Release from seizure cannot be asked for in writ petition (Sep) 436B
- Art. 226 — Dismissal of writ petition against order of dismissal — Subsequent suit challenging dismissal — Decision on points raised and decided in writ will act as res judicata — See Civil P. C. (1908), S. 11 (Oct) 466A
- Art. 226 — Mandamus — U. P. Municipalities Act (2 of 1916), Section 57 (3) — Officer holding officiating post of Addl. Executive Officer — State Government or Administrator Nagar Mahapalika cannot be compelled to carry out obligations contained in Rule 22 of Fundamental Rules when that rule did not apply to the officer (Oct) 480B
- Art. 226 — Subjective opinion of Government — Not justiciable — See Defence of India Rules (1962), R. 45 (e) (Nov) 548A
- Art. 226 (1A) — 'Cause of action, wholly or in part, arises' — Sugarcane Control Order (1966), Cl. 6 — Order under Clause 6 (1) (a) by Cane Commissioner, Bihar, at Patna, reducing area for sugarcane purchase reserved for petitioner's sugar factory situate in U. P. — Another order allotting excluded area for respondent's Sugar Factory in Bihar — Allahabad High Court has no jurisdiction to entertain petition for quashing these orders as no part of cause of action arose within its territorial jurisdiction — Place of communication of order according to law or of consequence arising from order — If furnishes cause of action (Mar) 105A
- Art. 227 — Power of High Court — Power is derived from paramount law of land — Section 23 (2) of U. P. Act 5 of 1954 is a law made under this paramount law — It cannot take away right of High Court under Article 226 — See Constitution of India, Article 226 (Jun) 304B (FB)
- Art. 233 — Eligibility of appointment as District Judge — Person not in judicial service is also eligible provided he has been a lawyer of seven years' standing and has been recommended by High Court — Words "has been" in the expression "if he has been for not less than seven years an advocate" — Meaning — Person need not be continuing as an advocate at the time of his appointment (May) 230A
- Art. 233 — U. P. Higher Judicial Service Rules, 1953 — Effect of decision in AIR 1966 SC 1987 — Article 233 deals with only one condition of service, namely, appointment — Only Rules relating to appointment alone are invalid due to non-compliance with Article 233 (1) — Rest of the Rules are valid — See Constitution of India, Article 309 Proviso (May) 230C

Constitution of India (contd.)

- Art. 233 — Neither Art. 233 nor Art. 233A involves fundamental rights — See Constitution of India, Art. 233A (Dec) 594C (FB)
- Arts. 233 (2) and 236 (b) — Expression "the service" in Art. 233 (2) can only mean 'judicial service' as defined in cl. (b) of Art. 236 — Judicial Magistrate is not in "the service" within meaning of cl. (2) of Art. 233 (Dec) 594A (FB)
- Art. 233 (2) — Judicial Magistrate, a pleader for not less than 7 years before his appointment to Higher Judicial Service — He is not already in the service of State and is eligible for appointment as District Judge (Dec) 594B (FB)
- Art. 233A — U. P. Higher Judicial Service Rules 1953 — Effect of decision in AIR 1966 SC 1987 — Article 233 deals with only one condition of service, namely, appointment — Only the Rules relating to appointment alone are invalid due to non-compliance with Article 233 (1) — Rest of the rules are valid — See Constitution of India, Art. 309, Proviso (May) 230C
- Art. 233A (as inserted by 20th Amendment), Articles 142 and 144 — Validity — Amendment is invalid in so far as it validates appointment of parties to AIR 1966 SC 1987 (May) 230D
- Arts 233A, 233, 368 Proviso, 141, 142, 144, 245, 246, 31A and 31B — Constitution (Twentieth Amendment) Act (1966) — Validity — Amendment of Constitution by inserting Article 233A was within competence of Parliament — Object of Article 233A — Neither Article 233 nor Article 233A involves fundamental rights — Inserting Article 233A has not the effect of amending Article 142 or 144 directly or indirectly — Proviso to Article 368 is not attracted — American doctrine of separation of legislative and judicial powers does not apply in India. AIR 1969 All 230, Reversed (Dec) 594C (FB)
- Art. 236 (b) — Expression "the service" in Article 233 (2) can only mean "judicial service" as defined in Art. 236 (b) — See Constitution of India Art. 233 (2) (Dec) 594A (FB)
- Art. 245 — U. P. Foodgrains (Restrictions on Hoardings) (Amendment) Order, 1967 — Held, order was beyond authority delegated by Central Government — See Essential Commodities Act (1955), S. 5 (Nov) 560D
- Art. 245 — Article 141 does not take away Parliaments power to amend Constitution — See Constitution of India Article 233A (Dec) 594C (FB)
- Art. 246 — Circumstances and Property tax comes within Sch. VII, List II, Items 49 and 60 — Provision is intra vires the State Legislature — See Municipalities — U. P. Town Areas Act (2 of 1914), S. 14 (1) (f) (Jan) 40B (FB)

Constitution of India (contd.)

—Art. 246, Sch. 7, List 2, Entry 60 — U. P. Vritti, Vyapar, Ajivika Aur Sevayojan Kar Adhiniyam (21 of 1965), Pre., Sections 3, 4, 5, 2 (6), 2 (12) — Act does not impose tax on income but one on trades, callings, professions and employments — It is within legislative competence of U. P. Legislature (Jun) 317A (FB)

—Art. 246 — Article 141 does not take away Parliament's power to amend Constitution — See Constitution of India, Art. 233A (Dec) 594C (FB)

—Arts. 254, 270, 269, 301, Sch. 7, List 1, Entry 82; Sch. 7, List 2, Entry 60 — U. P. Vritti, Vyapar, Ajivika Aur Sevayojan Kar Adhiniyam (21 of 1965), Preamble, S. 3 — Tax is not tax on income and clearly falls under Entry 60 of List 2 — Arts. 254, 270, 269, 301 and Entry 82 of List 1 are not attracted — Act cannot be said to be conflicting with income-tax — (Income-tax Act (1963), Preamble) (Jun) 317F (FB)

—Art. 254 — S. 34 (1) (a) and S. 34 (1-A) of Income Tax Act (1922) do not betray mutual inconsistency or repugnancy — Doctrine of implied repeal not applicable — See Income-tax Act (1922), S. 34 (1) (a), S. 34 (1-A) (Aug) 375B

—Art. 265 — U. P. Act 21 of 1965 is valid — See Constitution of India, Article 276 (1) (Jun) 317B (FB)

—Art. 265 — U. P. Vritti, Vyapar, Ajivika Aur Sevayojan Kar Adhiniyam (21 of 1965), Preamble, S. 3 — Maximum amount of tax to be charged is Rs. 250 — Gross annual income is only yardstick to measure tax liability and not subject-matter of taxation — Act is not confiscatory in its nature (Jun) 317D (FB)

—Art. 269 — Tax under U. P. Act 21 of 1965, not a tax on income — Article not attracted — See Constitution of India, Art. 254 (Jun) 317F (FB)

—Art. 270 — Tax under U. P. Act 21 of 1965, not a tax on income and clearly falls under Entry 60 of List 2 — Article not attracted — See Constitution of India, Art. 254 (Jun) 317F (FB)

—Arts. 276 (1), 31, 265 — Expression "benefit of the State" in Art. 276 (1) — Word "benefit" is not used in sense of "public purpose" as used in Art. 31 — U. P. Vritti, Vyapar, Ajivika Aur Sevayojan Kar Adhiniyam (21 of 1965), Pre. — Act is valid (Jun) 317B (FB)

—Art. 286 (1) (b) — Exemption under — Sale in course of export — Sale must occasion export (Apr) 205 (FB)

—Art. 301 — Tax under U. P. Act 21 of 1965, not a tax on income — Article not attracted — See Constitution of India, Art. 254 (Jun) 317F (FB)

—Art. 302 — Essential Commodities Act (1955), S. 3 — U. P. Foodgrains (Res- 1969 (All.) Indexes 2.

Constitution of India (contd.)

trictions on Hoarding) (Amendment) Order, 1967 — Order would be deemed to be part of enactment itself — It is entitled to protection of Article 302 of the Constitution (Nov) 560C

—Art. 309, Proviso, Arts. 233 and 233-A — U. P. Higher Judicial Service Rules 1953 — Effect of decision in AIR 1966 SC 1987 — Conditions of service mean and include various aspects like appointment, scale of pay, confirmation, seniority promotion, payment of pension, etc. — Article 233 deals with only one condition of service, namely, appointment — Rules are severable — Only the rules relating to appointment alone are invalid due to non-compliance with Article 233 (1) — Rest of the rules are valid (May) 230C

—Arts. 309, 310 — All India Services Act (1951), Section 3 — Indian Forest Service (Cadre) Rules (1966), R. 4 (1) — Indian Forest Service (Initial Recruitment) Rules (1966), Reg. 4 (1) — Rule requiring that member of State Forest Service cannot hold in substantive capacity post of Conservator of Forests or that superior to it — Person holding substantive post of Deputy Conservator of Forests occupying post of Conservator of forests in officiating capacity — Person not allowed to continue as Conservator of Forests — Held, he had not been reduced in rank (Aug) 370H

—Art. 309 — Rules under — Pleasure of President not subject to Rules — See Constitution of India, Art. 310 (1) (Sep) 422B

—Arts. 309, 310 and 311 (before amendment by 1963 Act) defines scope relating to recruitment and conditions of service — Art. 311 (2) must be read in relation to existing post — Civil servant exists so long as post is not abolished — See Constitution of India, Art. 311 (2) (before amendment by Constitution (Fifteenth Amendment) Act 1963) (Sep) 449 (FB)

—Art. 309 — Government of India Act (1935), S. 241 (1) (b) — Executive Officer of Municipal Board is not included in class of persons dealt with in S. 241 (1) (b) — Fact that State Government is approving authority is not material — Fundamental Rules made under S. 241 (1) (b) are not applicable to such officer (Oct) 480A

—Art. 309 — Copy of report of investigating officer not supplied — No prejudice caused — Plea of want of reasonable opportunity not maintainable — See Constitution of India, Article 311 (2) (Nov) 542C

—Art. 310 — Officiating incumbent not allowed to continue — No reduction in rank — See Constitution of India, Art. 309 (Aug) 370H

—Arts. 310, 309 & 311 (before amendment by 1963 Act) defines scope relating

Constitution of India (contd.)

to recruitment and conditions of service — Art. 311 (2) must be read in relation to existing post — Civil servant exists so long as post is not abolished — See Constitution of India, Article 311 (2) (before amendment by Constitution (Fifteenth Amendment) Act 1963)

(Sep) 449 (FB)

— Art. 310 (1) — Termination of service — Satisfaction contemplated under Article 311 (2) not proved — Violates Article 311 (2) — See Constitution of India, Art. 311 (2) Proviso (C) (Sep) 422A

— Arts. 310 (1), 309 — Pleasure of President of India under Article 310 (1) is not subject to the rules that have been framed by virtue of Article 309

(Sep) 422B

— Art. 311 — Disciplinary action — Evidence to be supplied with charge — Not an inflexible rule (Jan) 11A

— Art. 311 — Disciplinary action — Show cause notice — Report of Enquiring Officer not sent with it — Effect

(Jan) 11B

— Art. 311 — Disciplinary action — Show cause notice — One week's time given for reply — Effect (Jan) 11C

— Art. 311 — Dismissal of public servant — Appeal — No rule that personal hearing should be given, though it is better to give such hearing (Jan) 11D

— Art. 311 — Promotion to higher post — Decision not to promote does not amount to imposing penalty — See Institutes of Technology Act (1961), S. 26

(May) 213A

— Art. 311 — Dismissal of writ petition against order of dismissal — Subsequent suit challenging dismissal — Decision on points raised and decided in Writ will act as res judicata — See Civil P. C. (1908), S. 11

(Oct) 466A

— Art. 311 — Decision based on misreading of documents and erroneous view of Art. 311 — Decision not binding in second appeal — See Civil P. C. (1908), S. 100

(Nov) 542A

— Art. 311 (1) — Plaintiff appointed as Sub Inspector by Inspector General of Police and later on confirmed by Inspector General of Police — Dismissal by Deputy Inspector General violates Article 311 (2) and hence void and ultra vires

(Oct) 466B

— Art. 311 (2) Proviso (a) — "Conduct leading to conviction" — Removal from service on ground of conviction on criminal charge — Conviction set aside in appeal — Government not entitled to benefit of sub-clause (a) of proviso — Claim of departmental enquiry under Art. 311 (2) is justified (Aug) 414A (FB)

— Arts. 311 (2), Proviso (c), 310 (1) — Order issued under Art. 310 (1) terminating services of employee — Order challenged on ground of it being issued

Constitution of India (contd.)

without satisfaction contemplated under Article 311 (2) Proviso (c) — Satisfaction not proved — Order violates Art. 311 (2) (Sep) 422A

— Arts. 311 (2), (before amendment by Constitution (15th Amendment), Act 1963), 310 and 309 — Abolition of permanent post — Termination of services of person holding that post in consequence thereof — Art. 311 (2) is not attracted. AIR 1965 J. & K. 15 (FB) Dissented from — AIR 1965 All 406, Reversed (Sep) 449 (FB)

— Arts. 311 (2), 309 — Civil Services (Classification, Control and Appeal) Rules (1930), Rule 55 — Failure to supply copy of report made by investigating officer — Charge-sheet containing almost everything stated in report — No prejudice caused to defence of delinquent servant — Plea of failure to afford reasonable opportunity is not tenable (Nov) 542C

— Art. 358 — Act passed after enforcement of emergency challenge to under Art. 19 (1) (f) & (g) — See Constitution of India, Art. 19 (Jun) 317E (FB)

— Art. 368, Proviso — Inserting Article 233A in Constitution has not the effect of amending Art. 142 or Art. 144 — Proviso to Art. 368 is not attracted — See Constitution of India, Art. 233A

(Dec) 594C (FB)

— Sch. 1, Serial No. 15 — Sales from dealer in U. P. to dealers in J. & K. State — Would be inter-state sales liable to tax under Central Sales Tax Act — See Sales Tax — Central Sales Tax Act (1956), S. 3

(Nov) 516A

— Sch. 7, List I, Item 82 — Income-tax and circumstances and property tax are fundamentally distinct — Latter tax not covered by Item 82 — 1961 All LJ 743 & 1955 All LJ 630 & AIR 1957 All 433, Overruled (Jan) 40A (FB)

— Sch. 7, List 1, Entry 82 — Applicability — See Constitution of India, Art. 254 (Jun) 317F (FB)

— Sch. 7, List II, Item 49 — Circumstances and property tax — Covered by the item — See Municipalities — U. P. Town Areas Act (2 of 1914), S. 14 (1) (f)

(Jan) 40B (FB)

— Sch. 7, List II, Item 60 — Circumstances and property tax — Comes within the item — See Municipalities — U. P. Town Areas Act (2 of 1914) S. 14 (1) (f) (Jan) 40B (FB)

— Sch. 7, List 2, Entry 60 — U. P. Act 21 of 1965 does not impose any tax on income but one on trades, callings, professions and employments — It is within the competence of U. P. Legislature — See Constitution of India, Art. 246

(Jun) 317A (FB)

— Sch. 7, List 2, Entry 60 — Tax under U. P. Act 21 of 1965 falls under this entry — Not a tax on income — See Constitution of India, Art. 254 (Jun) 317F (FB)

Contempt of Courts Act (32 of 1952), Section 1 — Proceedings before Court involving question as to status of community — Public comments thereon, when amounts to contempt of Court. (Feb) 68A

Contract Act (9 of 1872), Section 10 — Compromise decree — Construction — Principles governing construction of contract applicable — See Civil P. C. (1908), S. 2 (2) (June) 296 (FB)

—Section 56 — Plea of frustration — Suit on basis of contract — Defendant may admit contract and to avoid effect of admission raise plea of frustration — See Civil Procedure Code (5 of 1908), O. 8. R. 2 (Dec) 571D

Court-fees Act (7 of 1870)

See under Court-fees and Suits Valuations.

COURT FEES AND SUITS VALUATIONS

—Court-fees Act (7 of 1870), Ss. 5, 6-C — Chief Justice and Taxing Judge deciding reference under Sec. 5 are not persona designata — AIR 1927 Bom 643, Diss. from (Oct) 484A

—S. 5 — U. P. General Clauses Act (1 of 1904), S. 13 (2) — Allahabad Rules of Court (1952) Ch. 5, R. 2 proviso — Word 'Judge' occurring in S. 5, Court Fees Act can be read as 'Judges' — Taxing Judge or Chief Justice can make reference under S. 5 to a larger Bench: AIR 1951 All 499 and (1911) ILR 33 All 20, Overruled; AIR 1951 Orissa 265, Diss. from (Oct) 484B

—S. 6-C — Judges hearing reference under S. 6-C act in official capacity and not as persona designata — See Court-fees and Suits Valuations — Court-fees Act (1870), S. 5 (Oct) 484A (FB)

—S. 13 — Refund of court-fees — Remand in appeal under O. 41, R. 23, Civil P. C. (as amended in U. P.) on ground that it was in the interest of justice to do so — Appellant entitled to refund of court-fee (Mar) 142A

Criminal Procedure Code (5 of 1898), S. 12 — Honorary Magistrate — Not disqualified from being elected as Adhyaksha of Z. P. under U. P. Act 33 of 1961 — See Panchayats — U. P. Kshettra Samitis and Zila Parishads Adhiniyam (U. P. Act 33 of 1961), S. 13 (c) (Feb) 65B

—S. 14 — Honorary Magistrate — Not disqualified for being elected as Adhyaksha of Z. P. under U. P. Act 33 of 1961 — See Panchayats — U. P. Kshettra Samitis and Zila Parishads Adhiniyam (U. P. Act 33 of 1961), S. 13 (c) (Feb) 65B

—S. 32 — Lawful sentence — Eminent doctor luring a woman into a path of immo-

Criminal Procedure Code (contd.)

rality and finally renouncing her — Doctor sentenced under Ss. 376, 417 Penal Code — Court directing that the doctor should be debarred from practising for three years — Whether he should be allowed to practise or not is for Indian Medical Council to decide — Order of the Court are illegal (Oct) 489F

—S. 96 — Seizure of stock by police under S. 96 Criminal P. C. — Release of — Application should be made before Magistrate before whom case is pending — See Constitution of India, Art. 226 (Sep) 436B

—S. 103 — Taking of sample of adulterated milk by Food Inspector — Witnesses — Requirement as to — See Prevention of Food Adulteration Act (1954), S. 10 (7) (Mar) 109C

—Ss. 127 and 128 — Power to disperse assembly — Who can exercise — Refusal or failure to disperse — Effect — Action can be taken under S. 128 — Unlawful character of assembly has to be determined under S. 141, I. P. C. — Disobedience of command under S. 127 is not a relevant consideration — (Penal Code (1860), S. 141) (Mar) 130B

—S. 128 — Unlawful assembly — Power to disperse assembly — Who can exercise — Refusal or failure to disperse — Effect — See Criminal P. C. (1898), S. 127 (Mar) 130B

—S. 145 — Reference to Civil Court under S. 146 (1) — Civil Court has jurisdiction and is legally competent to require the person whose affidavit was filed before Magistrate under S. 145 (1) to attend Court for purposes of cross-examination — See Criminal P. C. (1898), S. 146 (Feb) 82A

—Ss. 145, 539, 539AA and 510A (1) — Evidence on affidavits — Proceedings under S. 145 — If evidence is of formal character, affidavit verified by Oath Commissioner is admissible in evidence — Evidence not of formal character — Affidavit will have to be verified by Magistrate himself — Held on facts that affidavit in question was not verified by Magistrate himself and therefore, was inadmissible in evidence (Aug) 405A

—S. 145 — Finding of fact, challenge to — Normal remedy is under S. 145 (6) — When powers of revision can be invoked — See Criminal P. C. (1898), S. 439 (Aug) 405B

—Ss. 146, 145 — Reference to Civil Court under S. 146 (1) — Civil Court has jurisdiction and is legally competent to require the person whose affidavit was filed before Magistrate under S. 145 (1) to attend Court for purposes of cross-examination — But this is discretionary — 'Evidence' here includes affidavit (Feb) 82A

Criminal Procedure Code (contd.)

—S. 146 — Reference to Civil Court — Civil Court refusing to summon deponent of affidavit before Magistrate for being cross-examined — It is 'case decided' within S. 115 C. P. C. — See Civil P. C. (1908), S. 115

(Feb) 82B

—S. 156 (1) — Investigation by officer under Prevention of Corruption Act (1947) — Officer not empowered under S. 5-A, 1947 Act — Investigation illegal — Accused not entitled to copies of statements recorded in illegal investigation — See Criminal P. C. (1898), S. 161

(Oct) 503

—Ss. 161, 173 (4), 156 (1) — Prevention of Corruption Act (1947), S. 5A — Investigation of case by police officer other than one having requisite authority under S. 5-A — It is no investigation under S. 161 and accused is not entitled to copies of statements recorded by such police officer under S. 173 (4)

(Oct) 503

—S. 173 — Report by police officer in a non-cognisable case — Must be treated as a police report within Ss. 251, 251A and 252 — See Criminal P. C. (1898), S. 251A

(Mar) 123B

—S. 173 — Magistrate not agreeing with final report — Ordering submission of fresh charge-sheet after re-investigation by the Magistrate — Prosecution on fresh charge sheet is illegal — See Criminal P. C. (1898), S. 190 (1) (c)

(May) 241A

—S. 173 (4) — Investigation by officer under Prevention of Corruption Act (1947) — Officer not empowered under S. 5-A Act of 1947 — Investigation illegal — Accused not entitled to copies of statements recorded in illegal investigation — See Criminal P. C. (1898), S. 161

(Oct) 503

—S. 190 — Report by police officer in a non-cognisable case is a police report — Proceedings before Magistrate on basis thereof cannot be under S. 251A — Cognisance so taken is only in nature of error in proceeding antecedent to trial — See Criminal P. C. (1898), S. 251A

(Mar) 123B

—Ss. 190 (1) (c) and 173 — Submission of final report by Police — Magistrate not agreeing with it — Ordering submission of fresh charge-sheet after re-investigation — Prosecution on fresh charge-sheet is illegal

(May) 241A

—Ss. 190 (1) (c), 192 — Transfer of case from one Magistrate to another — Previous Magistrate found to have committed illegality in prosecuting case — Dismissal of case on that ground by second Magistrate is valid

(May) 241B

—S. 192 — Transfer of case to another Magistrate — Previous Magistrate found to have committed illegality in prosecuting case — Dismissal of case on the same ground

Criminal Procedure Code (contd.)

by second Magistrate is valid — See Criminal P. C. (1898), S. 190 (1) (c)

(May) 241B

—S. 195 (1) (c) — Bar under — Operates even if forgery is committed subsequent to initiation of proceedings

(Apr) 189A

—S. 195 (1) (c) — Scope — Penal Code (1860), Ss. 471, 467 and 420 — Main offence under S. 471 — Other offences flowing from it — Mere tacking of other offences to S. 471 will not take case out of ambit of S. 195 (1) (c) Cr. P. C.

(Apr) 189B

—S. 198, Proviso — Penal Code (1860), S. 499 — Filing of complaint by indirectly defamed father on behalf of himself and his directly defamed daughter — Case not covered by S. 198 proviso — Complaint can be treated as filed on behalf of father alone — When so treated, competence to file complaint cannot be challenged

(Sep) 423D

—S. 202 — Examination of witness under S. 202 — Evidence not admissible in trial under S. 33 Evidence Act (1872) — See Evidence Act (1872), S. 33

(Oct) 489D

—S. 202 — Scope — Issue of warrant against accused before conclusion of enquiry under S. 202 (1) — Not proper — Procedure to be adopted where it is necessary to put up person named as accused for identification

(Dec) 591

—S. 205 — Representation of accused, under — Statement of accused recorded in presence of counsel, admissible under S. 288 — See Criminal Procedure Code (5 of 1898), S. 288

(Nov) 521B

—S. 221 — Charge — Numerous offences alleged — There should be separate charges for each offence — Offences spreading over a period of years — Nothing in common in sequence of time or unity of purpose — One charge for all offences bad in law — See Criminal P. C. (1898), S. 234 (1)

(Oct) 489A

—S. 222 — Charge — Numerous offences alleged — There should be separate charges for each offence — Offences spreading over a period of years — Nothing in common in sequence of time or unity of purpose — One charge for all offences bad in Law — See Criminal P. C. (1898), S. 234 (1)

(Oct) 489A

—S. 222 — Charge must clearly show time, place and manner in which offence committed — See Penal Code (1860), S. 417

(Oct) 489C

—S. 223 — Charge — Numerous offences alleged — There should be separate charges for each offence — Offences spreading over a period of years — Nothing in common in sequence of time or unity of purpose — One charge for all offences bad in law — See Criminal P. C. (1898), S. 234 (1)

(Oct) 489A

Criminal Procedure Code (contd.)

—S. 223 — Charge must clearly show time, place and manner in which offence committed — See Penal Code (1860), S. 417 (Oct) 489C

—Ss. 226 and 227 — Scope — Addition of charge — Accused committed to trial for offence under S. 493 Penal Code only — Complaint alleging cheating by accused and seeking trial for that offence also — Considering evidence, Sessions Judge has power to add charge under S. 417 Penal Code also (Oct) 489B

—S. 227 — Combined effect of Ss. 227 and 226 — Power of Court to remedy defect in charge even by adding new charge — See Criminal P. C. (1898), S. 226 (Oct) 489B

—S. 232 — Material error in charge — Remand not held expedient under circumstances of the case — See Penal Code (1860), S. 417 (Oct) 489C

—S. 233 — Charge — Numerous offences alleged — There should be separate charges for each offence — Offences spreading over a period of years — Nothing in common in sequence of time or unity of purpose — One charge for all offences bad in law — See Criminal P. C. (1898), S. 234(1) (Oct) 489A

—Ss. 234 (1), 235 (1), 221, 222, 223 and 233 — Charge under Section 417 Penal Code — Charge envisaging a period of about 15 years alleging deception by inducement of complainant to believe that she was the legally wedded wife of accused throughout the period — Charge also alleging numerous deliveries of properties on different occasions by complainant to accused — But such deliveries having nothing in common either as to time or unity of purpose — No charge of conspiracy made — Such composite charge hence illegal (Oct) 489A

—S. 235 (1) — Joinder of charges — Three offences of cheating committed during a period beyond one year when can be tried together — See Criminal P. C. (1898), S. 234 (1) (Oct) 489A

—S. 247 — Mistaken order of acquittal purporting to be under S. 247 passed on date other than date fixed for hearing — Order is nullity and can be ignored by Court on discovery of mistake — It is not necessary to refer case to High Court. AIR 1930 Mad 1001 & AIR 1943 Mad 6, Dissent (Nov) 513A

—Ss. 247, 403 — Order dismissing complaint passed on date other than date appointed for appearance of accused — Order does not amount to order of acquittal — Fresh complaint on same set of facts is competent (Nov) 513B

—S. 251 — Report by police officer in a non-cognisable case — Must be treated as a police report within the section — See Criminal P. C. (1898), S. 251A (Mar) 123B

Criminal Procedure Code (contd.)

—Ss. 251A, 251, 252, 173, 190, 537 — Essential Commodities Act (1955), Ss. 7, 3 — Prosecution under — Offence, a non-cognizable offence — Report by police officer even though in non-cognizable case must be treated as police report within the meaning of Ss. 251, 251A and 252 — Proceedings before Magistrate on basis thereof cannot but be under S. 251-A — Defect in investigation — Cognizance so taken is only in nature of error in proceeding antecedent to trial — Defect will be cured under S. 537 (Mar) 123B

—S. 251-A (7) — Procedure in warrant case on police report — After framing charge Magistrate has to follow procedure prescribed by examining all prosecution witnesses produced — He cannot acquit accused after examining some witnesses and closing prosecution evidence — Order of acquittal set aside (Oct) 512

—S. 252 — Report by police officer in a non-cognisable case — Must be treated as police report within the section — See Criminal P. C. (1898), S. 251A (Mar) 123B

—S. 256 — 'Any remaining witnesses for the prosecution' — Expression also include all such witnesses as may be produced by complainant, even though neither summoned nor named (Dec) 583

—Ss. 288 and 205 — Expression "presence of the accused" in S. 288 — Meaning of — Accused represented by counsel under S. 205 (1) — Statements recorded in presence of counsel is admissible under S. 288 (Nov) 521B

—S. 288 — Prosecution witnesses resiling from statement made in committing Court — Extrinsic evidence corroborating such statement and motive for resiling also proved — Conviction on basis of such statement, held not illegal (Nov) 521C

—S. 342 — Murder — Bad character of accused not a fact in issue in case — Sessions Judge held not justified in questioning accused to find out antecedents of his past life — He could examine him only about the evidence proposed to be used against him — In criminal proceedings, fact that accused has a bad character is irrelevant unless evidence is given that he has a good character — Evidence Act (1872), S. 54 (Feb) 61C

—Ss. 342, 367 — Evidence Act (1872), S. 64 — Admission by accused of execution of document in statement under S. 342 — Prosecution based on document — Prosecution fails on its failure to prove the document (Sep) 423E

—S. 367 — Appreciation of evidence — Accused admitting execution of document in examination under S. 342 Criminal P. C. — Cannot replace failure of prosecution to prove it — See Criminal P. C. (1898), S. 342 (Sep) 423E

Criminal Procedure Code (contd.)

—Ss. 386 (1) Proviso and 401 — Penal Code (1860), Ss. 64, 68 and 69 — Imprisonment in default of fine — Undergoing of imprisonment does not operate as discharge or satisfaction of fine — Special circumstances to be mentioned — Remission of part of imprisonment under S. 401 is illegal — Remission cannot amount to undergoing the whole term awarded (Mar) 116

—S. 401 — Imprisonment in default of fine — Undergoing of imprisonment does not operate as discharge or satisfaction of fine — Remission of part of imprisonment under S. 401 is illegal — Remission cannot amount to undergoing the whole term awarded — See Criminal P. C. (1898), S. 386 (1) Proviso (Mar) 116

—S. 403 — Court dismissing complaint under S. 247 on date that was not fixed for hearing — Order does not amount to acquittal — Fresh complaint on same facts is competent — See Criminal Procedure Code (5 of 1898), S. 247 (Nov) 513B

—S. 405 — Appeal against under S. 515 — Provisions of Chapter XXXI whether applicable — See Criminal P. C. (1898), S. 514 (Nov) 557

—S. 406 — Appeal against under S. 515 — Provisions of Chapter XXXI whether applicable — See Criminal P. C. (1898), S. 514 (Nov) 557

—S. 406-A — Appeal against under S. 515 — Provisions of Chapter XXXI whether applicable — See Criminal P. C. (1898), S. 514 (Nov) 557

—S. 423 — Case protracted in trial court for years — Two out of three charges failing — Third charge lacking necessary details — Remand held not expedient — See Penal Code (1860), S. 417 (Oct) 489C

—S. 423 — Order forfeiting surety bond — Appellate Court cannot remand case — See Criminal P. C. (1898), S. 514 (Nov) 557

—S. 438 — Court passing order under S. 247 on date which was not fixed for hearing — Order is nullity which can be ignored — No reference to High Court necessary — AIR 1930 Mad 1001 and AIR 1943 Mad 6, Dissent — See Criminal Procedure Code (5 of 1898), S. 247 (Nov) 513A

—Ss. 439 and 145 — Proceedings under S. 145 — Finding of fact is not interfered with in revision as aggrieved party has remedy under S. 145 (6) — Finding of fact recorded by relying upon evidence inadmissible in evidence — Held, High Court could interfere in revision (Aug) 405B

—S. 439 — Criminal revision — Charge of defamation — "Good faith" claimed — Finding as to, is finding of fact — Cannot be interfered in revision (Sep) 423B

—S. 439 — Scope — Comparison of disputed signature with proved, is bringing in new evidence — Not permissible in revision

Criminal Procedure Code (contd.)

— See Evidence Act (1872), S. 73 (Sep) 423H

—S. 439 — Conclusions of lower Court as to commission of offence on the basis of evidence — Fresh scrutiny thereof cannot be made in revision as it is a pure question of fact (Nov) 521A

—S. 486 — Provisions of Chapter XXXI if applicable to appeal under S. 486 (1) — See Criminal P. C. (1898), S. 514 (Nov) 557

—S. 488 — Claim for maintenance under — Decree for judicial separation under S. 10 of Hindu Marriage Act does not operate as bar — Parties living separately by mutual consent — Wife held not entitled to maintenance — Children, not deprived of their right to claim maintenance (Apr) 191

—S. 510A (1) — Evidence not of formal character — Who should verify affidavit — See Criminal P. C. (1898), S. 145 (Aug) 405A

—S. 514 — "Court shall record the grounds of such proof" — Before surety is called upon to show cause why amount of bond or penalty thereunder may not be recovered from him, Court must first be satisfied that bond stood forfeited and reasons for that satisfaction must be recorded in writing. AIR 1943 Cal 251, Dissent from (Aug) 403

—Ss. 514, 515, 423, 405, 406, 406A, 486 and 561A — Order forfeiting personal and surety bonds — Appeal against, under S. 515 — Appellate Court can only quash or uphold the order — No power to remand case — Neither there is such inherent power in court to do so (Nov) 557

—S. 515 — Order forfeiting surety bond — Appeal against — Court cannot remand case — See Criminal P. C. (1898), S. 514 (Nov) 557

—S. 537 — Cognisance taken by Magistrate on basis of a report by police officer in a non-cognisable case — Defect in investigation — Defect will be cured under S. 537 — See Criminal P. C. (1898), S. 251A (Mar) 123B

—S. 539 — Powers of Oath Commissioner — See Criminal P. C. (1898), S. 145 (Aug) 405A

—S. 539AA — When oath commissioner should exercise powers under — See Criminal P. C. (1898), S. 145 (Aug) 405A

—S. 561A — Order of forfeiture of surety bond — Appeal against — No inherent power to remand case — See Criminal P. C. (1898), S. 514 (Nov) 557

Cy pres — Doctrine of — Applicability to wakf — See Mussalman Wakf Validating Act (1913), Section 3 (Jan) 35C

DEBT LAWS

—U. P. Encumbered Estates Act (25 of 1934), S. 19 (2) — Sale of property fraudulently shown as belonging to one person —

Debt Laws — U. P. Encumbered Estates Act (contd.)

Creditor of true owner can claim it as his own in collateral proceedings — See Debt Laws — U. P. Encumbered Estates Act (25 of 1934), Section 47 (May) 220 (FB)

—Ss. 47, 19 (2) — Property fraudulently shown in the list under Section 19 (2) as property of one person and sold in auction — Creditor of true owner who is not party to sale proceedings can claim it as his own in collateral proceedings — AIR 1947 All 188, Overruled (May) 220 (FB)

Defence of India Act (51 of 1962), S. 44 — Provisions under — When not violated — Defence of India Rules (1962), Rule 41

(Nov) 548B

Defence of India Rules (1962), R. 41 — Prosecution of editor etc. of journal for publishing prejudicial matter — Forfeiture of issue — No violation of Section 44 of the Act — See Defence of India Act (1962), Section 44 (Nov) 548B

—R. 45 (e) — Action under, is dependent upon subjective opinion of Government and is not justiciable (Nov) 548A

—R. 125 (2) — Essential Articles (Price Control) Order, 1963 — Order silent as to time of operation — Mere publication in gazette does not bring it into immediate effect — General Clauses Act (1897), S. 5, not applicable to executive order (Apr) 184

Displaced Persons (Compensation and Rehabilitation) Act (44 of 1954), S. 20 — Provision, compared with Section 10 (2) (o) of Administration of Evacuee Property Act (1950) — See Administration of Evacuee Property Act (1950), Section 10 (2) (o)

(Nov) 554

Easements Act (5 of 1882), S. 52 — No interest in property passed to occupier — Occupier is licensee and not lessee — Fact that ground rent was being charged would not make him lessee — See T. P. Act (1882), S. 105 (May) 248K

EDUCATION

—U. P. Varanaseya Sanskrit Vishwa Vidyalaya Act (28 of 1956), S. 12 — Scope — Successive orders under Section 12 (6) are permissible (Aug) 378 (FB)

Employees' Provident Funds Act (19 of 1952), S. 16 (1) — Automatic application of Act and Scheme after expiry of three years from date of establishment of factory falling within purview of Act — Liability of Employer to contribute can be enforced retrospectively from date of such application of Act

(Sep) 432C

—S. 19-A and Sch. I — 'Khandsari' is nothing but sugar within meaning of Sch. I — Order of Central Government under Sec-

tion 19-A (1) that petitioner's Khandsari manufactory is a sugar factory falling within Sch. I is final and cannot be challenged

(Sep) 432B

—Sch. I — Khandsari Manufactory — Factory declared sugar factory under Section 19-A (1) is final — See Employees' Provident Funds Act (1952), Section 19A

(Sep) 432B

Equity — Cy pres Doctrine — Applicability to wakf — See Mussalman Wakf Validating Act (1913), S. 3 (Jan) 35C

Essential Commodities Act (10 of 1955), Ss. 3, 5 — U. P. Foodgrains Dealers Licensing Order (1964), Clauses 3 (2), 2 (a) — Presumption under Clause 3 (2) — Person engaged in business of selling and purchasing goods — Wheat found in his possession in excess of ten quintals — Presumption under Clause 3 (2) would be that it was stored for purpose of sale — He would be person engaged in business of selling or purchasing foodgrains (Mar) 123A

—S. 3 — Non-cognisable case — Defect in investigation — Cognisance — Effect — See Criminal P. C. (1898), S. 251A

(Mar) 123B

—S. 3 — U. P. Foodgrains (Restrictions on Hoarding (Amendment) Order, 1967 would be deemed to be part of enactment itself — See Constitution of India, Art. 302

(Nov) 560C

—S. 3 — U. P. Foodgrains (Restrictions on Hoarding) (Amendment) Order, 1967, held, was outside authority delegated by central Government — See Essential Commodities Act (1955), Section 5

(Nov) 560D

—S. 3 (1) and (2) (d) — U. P. Foodgrains (Restrictions on Hoarding) (Amendment) Order 1967, Para 3 — Order providing limits of stock to be held by a grain dealer — Such provision is not regulatory but prohibitory — Though it is beyond power conferred by Section 3 (2) (d) is covered by S. 3 (1) (Nov) 560A

—S. 3 (1) and (2) (d) — There is no conflict between the two provisions — Proposition that special provision must prevail as against general provision has no application (Nov) 560B

—S. 5 — Person engaged in business of purchasing and selling goods — Found in possession of wheat in excess of prescribed maximum — Presumption would be that it was stored for purposes of sale — See Essential Commodities Act (1955), Section 3

(Mar) 123A

—Ss. 5 and 3 — U. P. Foodgrains (Restrictions on Hoarding) (Amendment) Order, 1967 — Held, Order was outside authority delegated by Central Government in favour of State Government by its notification dated June 9, 1966. (Constitution of India, Article 245) (Nov) 560D

Essential Commodities Act (contd.)

—S. 5 — Power to make orders cannot be claimed in respect of matters not specified in notification under Section 5

(Nov) 560E

—Ss. 6A and 7 — Forfeiture of goods — Mens rea or bona fides of dealer — Consideration of, is relevant — Sections 6A and 7 are in pari materia

(Apr) 159

—S. 7 — Non-cognisable case — Defect in investigation — Cognisance — Effect — See Criminal P. C. (1898), Section 251A

(Mar) 123B

—S. 7 — Ss. 6A and 7 are in pari materia — See Essential Commodities Act (1955), Section 6A

(Apr) 159

—S. 7 (1) (a), Proviso — Prosecution under Section 7 read with Section 3 — Sentence of fine only awarded — Reasons given by Magistrate being age of accused, his being first offender, length of trial and loss sustained by accused — Reasons held to be most unsatisfactory — Reduction of fines from Rs. 2,000 to Rs. 1,000 by Sessions Judge in appeal held not justified — Offences of this type deserve deterrent punishment

(Mar) 123C

Evidence Act (1 of 1872), S. 1 — 'Evidence' in the context of Section 146 (1), Criminal P. C. includes affidavit — See Criminal P. C. (1898), S. 146

(Feb) 82A

—S. 3 — Evidence in the context of Section 146 (1-A), Criminal P. C. includes affidavits forming part of evidence by virtue of Section 145 (1), Criminal P. C. — See Criminal Procedure Code (5 of 1898), Section 146

(Feb) 82A

—S. 3 — Prosecution under Sections 10(7), 16 and 17 (1) of the Prevention of Food Adulteration Act (1954) — Evidence and proof — See Prevention of Food Adulteration Act (1954), Section 10 (7)

(Mar) 109B

—S. 9 — Procedure under Sec. 202 (1), Criminal P. C. is to be adopted where it is necessary to put up person named as accused for identification — See Criminal P. C. (1898), S. 202

(Dec) 591

—S. 14 — Delay in issue of certificate to practise as a notary public signed much earlier — Inference as to mala fide cannot be drawn — See Constitution of India, Article 226

(Apr) 195D

—S. 18 — Admission of execution of document by accused during examination under Section 342, Criminal P. C. — Document, held not proved unless prosecution proves it — See Criminal P. C. (1898), Section 342

(Sep) 423E

—Ss. 21, 31 and 115 — In income-tax assessment proceedings against predecessor of defendant in present suit the predecessor and the defendant alleging that properties belonged to society registered under Societies Registration Act — This admission is binding on defendant in present suit against him and can be taken as evidence of fact that

Evidence Act (contd.)

the society was duly registered under Societies Registration Act, which fact is denied by defendant in the present suit

(May) 248D

—S. 21 — Admitting execution of document by accused during examination under Section 342, Criminal P. C. — Document held not proved unless prosecution proves it — See Criminal P. C. (1898), Section 342

(Sep) 423E

—S. 31 — Admission by predecessor of defendant — Admissibility — See Evidence Act (1872), S. 21

(May) 248D

—S. 33 — Witness examined under Section 202, Criminal P. C. by Committing Magistrate — Cross-examination of such witness by accused not being possible at that stage of proceedings, his evidence should not be admitted under Section 33 by trial judge

(Oct) 489D

—Ss. 34, 114, Illus. (f) — Entries in property register of society showing properties gifted to the society — That the entries were made not immediately but after some time will not by itself make the document inadmissible in evidence to show what properties were gifted

(May) 248J

—S. 35 — Certificate of guardianship under Section 7 of Guardians and Wards Act is admissible in evidence — Entries therein as to period of minority are relevant under Section 35, Evidence Act — (1896) ILR 18 All 478, Not foll.

(Apr) 162B

—S. 47, Explanation — Person acquainted with hand-writing — Clerk in principal's office claiming acquaintance with principal's handwriting — Letter to be proved written in 1963 — Clerk joining office in 1964 — No evidence that letters written by principal were in ordinary course of business habitually submitted to the Clerk — Clerk cannot be said to be acquainted with the hand-writing

(Sep) 423F

—S. 47, Explanation — Opinion as to handwriting — Non-expert witness — Admissibility of evidence of — Duty of cross-examiner — Party relying on evidence of witness to prove document — Failure to prove acquaintance of witness with hand-writing of executant of document — Evidence of such witness is inadmissible — Cross-examiner not obliged to prove absence of acquaintance with handwriting. AIR 1938 Pat 497, Diss. From

(Sep) 423G

—S. 54 — Bad character of accused — Relevance of in criminal proceedings — See Criminal P. C. (1898), Section 342

(Feb) 61C

—S. 64 — Admission of execution of document during examination of accused under Section 324, Criminal P. C. (1898) — No substitute for primary proof — See Criminal P. C. (1898), S. 342

(Sep) 423E

—S. 73 — Scope — Criminal revision — Determining genuineness of signature on document by comparing it with proved sig-

Evidence Act (contd.)

nature — Cannot be done in revision — Comparing of signatures amounts to bringing in new evidence (Sep) 423H

—S. 105 — Grave and sudden provocation — Burden of proof — See Penal Code (1860), Section 300 Exception 1

(Feb) 61A

—S. 106 — Defamation — First exception to Section 499, Penal Code (1860) — Onus to bring case within exception is on accused — See Penal Code (1860), S. 499 (Sep) 423A

—S. 112 — Hindu wife converting to Islam — Marriage does not stand automatically dissolved — Marriage with Muslim — Legitimacy of child born of that tie — Presumption — See Mahomedan Law

(Feb) 75

—S. 114 Illus. (e) — Registration of society under Societies Registration Act — Presumption can be raised that the necessary formalities were observed — See Societies Registration Act (1960), Section 1

(May) 248C

—S. 114, Illus. (f) — Entries in property register of society, not made immediately — Document is admissible in evidence to show what properties were gifted — See Evidence Act (1872), S. 34

(May) 248J

—S. 115 — Estoppel against statute — Admission of erroneous opinion on question of law by party's counsel in lower Court — Not binding on that party while seeking relief in appeal

(Jan) 14C

—S. 115 — Estoppel — Question as to age of minor — Failure to raise objection as to minority in Court below — Objection cannot be raised in revision under S. 115 Civil P. C. — See Civil P. C. (1908), S. 115

(Apr) 162C

—S. 115 — Admission by predecessor of defendant in a previous suit — Is binding on defendant in present suit — See Evidence Act (1872), S. 21

(May) 248D

—S. 115 — Question of waiver of fundamental rights does not arise — Constitutional right to equality extends also to procedural matters — See Constitution of India, Article 14

(Jun) 278D (FB)

—S. 115 — Section 12 (7), U. P. Consolidation of Holdings Act creates estoppel by record — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12 (7)

(Jul) 342F (FB)

—S. 115 — Res judicata creates estoppel by judgment — See Civil P. C. (1908), S. 11

(Oct) 504B

Factories Act (63 of 1948), S. 2 (k) (i) and (m) — Word "packing" in Sec. 2 (k) (i) — Interpretation of — Packing grass into bales by manual presses for being sent as raw material to paper mills — Not "manufacturing process". 1962-1 Lab LJ 697 (All), Reversed

(Nov) 547

Foreigners Act (31 of 1946), S. 2 (a) — Citizenship Act (1955), Section 9 (1) — Ac-

Foreigners Act (contd.)

quisition of foreign citizenship by Indian citizen between 26-1-1950 and commencement of Citizenship Act — No loss of Indian citizenship till commencement of Citizenship Act — Person entering India before commencement of Act (1955) cannot be deemed foreigner at time of his entry

(Apr) 165E

—S. 14 — Citizenship Act (1955), S. 9 (2) — Citizenship Rules (1956), R. 30 — Receipt of decision of Central Government under Rule 30 by State Government — Framing of charge under Section 14 prior to communication of order under Rule 30 to accused — Effect — Proceedings are not vitiated

(Apr) 165C

—S. 14 — Person entering India as Indian Citizen — Becoming foreigner thereafter — Cannot be prosecuted for breach of para 7 of Foreigners Order 1948 — See Foreigners Order (1948), Para 7

(Apr) 165D

Foreigners Order (1948), Para 7 — Person entering India as Indian citizen — Becoming foreigner thereafter — Cannot be prosecuted for breach of Para 7

(Apr) 165D

Forest Service (Cadre) Rules (1966)

See under Civil Services.

Forest Service (Initial Recruitment) Regulations (1966)

See under Civil Services.

Forest Service (Recruitment) Rules (1966)

See under Civil Services.

Fundamental Rules

See under Civil Services.

General Clauses Act (10 of 1897), S. 3 (8) — Executive order though passed in name of Central Government and not President is valid — See Constitution of India, Article 77 (1)

(Apr) 165A

—S. 3 (42) — Expression 'Person' — Expression covers limited company, even when carrying on the business in name or style other than its own — See Civil P. C. (1908), Order 30, Rule 10

(Jan) 1 (FB)

—S. 5 — Section not applicable to executive order — See Defence of India Rules, 1962, Rule 125 (2)

(Apr) 184

—S. 6 (c) and (e) — Power to levy penalty under Section 18A of Income-tax Act (1922) is saved by Section 6 (c) and (e) — See Income-tax Act (1963), Section 298

(Dec) 566B

—S. 24 — U. P. Home Guards Adhiniyam (29 of 1963), Section 15 — Appointment made under executive orders in force prior to coming into force of Adhiniyam — Appointment cannot be deemed to have been made under the Adhiniyam by virtue of Section 24 of General Clauses Act.

(Feb) 88A

—Cl. 8 (1) — Applicability — See Court-fees Act (1870), Section 13

(Mar) 142A

Government Grants Act (15 of 1895), S. 3 (as amended by U. P. Amendment Act 1950) — Section as amended makes U. P. Imposition of Ceiling on Land Holdings Act applicable to leases, on Government Estates, granted by the Government — See Tenancy Laws — U. P. Thekedari Abolition Act 1958 (1 of 1959), Section 3 (Jan) 43D

Government of India Act (1935) (26 Geo. V and I, Edw. VIII C. 2), S. 241 (1) (B) — Executive Officer of Municipal Board is not included in Class of persons dealt with in Section 241 (1) (B) — Fundamental Rules made under that section do not apply to such officer — See Constitution of India, Article 309 (Oct) 480A

Guardians and Wards Act (8 of 1890), S. 7 — Certificate of guardianship under the section is admissible in evidence — Entries therein as to period of minority are relevant under Section 35, Evidence Act (1872) — ILR 18 All 478, Not Foll. — See Evidence Act (1872), S. 35 (Apr) 162B

HIGH COURT RULES AND ORDERS

—Allahabad High Court Rules, Chapter XI, R. 9 — Register cannot admit appeal — Order for admission is done by the Court — Limitation for filing cross-objection runs from the date of admission by the Court — Civil P. C. (1908), Order 41, Rule 22 (May) 248A

—Allahabad Rules of Court (1952), Ch. 5, Rule 2 proviso — Applies to all cases heard in High Court — See Court-fees and Suits Valuations — Court-fees Act (1870), S. 5 (Oct) 484B (FB)

Hindu Law — Debts — Manager — Suit against — Creditor wishing to make joint family liable for manager's debts should make it clear in plaint — Judgment or decree not indicating that debt was incurred in capacity of manager — Decree cannot be executed against entire family property, but can be executed only against judgment-debtor's share. AIR 1935 Lah 1, Diss. (Apr) 155

—Religious Endowment — Concept and early history of religious trusts — See Religious and Charitable Endowments (May) 248L

—Religious Endowment — Gift to idol, an impersonal deity — Dedication held valid — See T. P. Act (1882), Section 122 (May) 248M

—Religious Endowments — Relinquishment of office of Mahantship cannot be made in favour of person other than the person next entitled to succeed (Dec) 571B

—Religious Endowments — Head of religious or charitable institution has no power

Hindu Law (contd.)

to bargain away his office or alter constitution of institution (Dec) 571C

Hindu Marriage Act (25 of 1955), S. 10 — Claim for maintenance by wife under Section 488, Criminal P. C. — Decree under the section does operate as bar — See Criminal P. C. (1898), S. 488 (Apr) 191

—S. 21 — Right of appeal is substantive right and is not a mere matter of procedure — It is the procedure only which is to be regulated by Civil P. C. — See Hindu Marriage Act (1955), S. 28 (Dec) 601

—S. 24 — Order under Section 24 — Appeal lies under Section 28 — F. A. F. O. No. 244 of 1959, D/- 19-5-1960 (All), Overruled; AIR 1960 Bom 315 and AIR 1962 Cal 455, Dissented from. — See Hindu Marriage Act (1955), Section 28 (Dec) 601

—Ss. 28, 21, 24 — Scope of — Order under Section 24 — Appeal lies under Section 28 — F. A. F. O. No. 244 of 1959, D/- 19-5-1960 (All), Overruled; AIR 1960 Bom 315 and AIR 1962 Cal 455, Dissented from (Dec) 601

—S. 28 — Provision is *pari materia* with Section 39 of Special Marriage Act (Dec) 603

HOUSES AND RENTS

—Uttar Pradesh Industrial Housing Act (U. P. Act No. 23 of 1955), Ss. 4, 7, 21 — Eviction of allottee — Right to file civil suit is not taken away by Section 21 — Civil suit or summary action under Section 21 are two alternative modes available to Housing Commissioner (Jun) 278C (FB)

—S. 4 — Right of Housing Commissioner to sue — Not confined to those cases only in which no action could be taken under Section 21 — See Constitution of India, Article 14 (Jun) 278E (FB)

—S. 4 — Housing Commissioner, under Section 4, is a juristic person (Jun) 278J (FB)

—S. 7 — Eviction of allottee — Right to file suit is not taken away by Section 21 — See Houses and Rents — U. P. Industrial Housing Act (U. P. Act No. 23 of 1955), S. 4 (Jun) 278C (FB)

—S. 7 — Validity — See Constitution of India, Article 14 (Jun) 278E (FB)

—S. 15 — 'Other charges' — It means charges analogous to rent — Water charges would be covered by expression 'other charges' (Jun) 278A (FB)

—S. 15 — Power of Housing Commissioner to determine and fix rent and other charges — Not unconstitutional or void for any reason (Jun) 278I (FB)

—Ss. 19, 20 — Alternative modes of recovery of Government dues — Availability of such alternative means of recovery which do not entail serious consequence of eviction would not invalidate either Section 19 or Section 20 (Jun) 278H (FB)

Houses and Rents — Uttar Pradesh Industrial Housing Act (contd.)

—S. 20 — Validity — See Houses and Rents — U. P. Industrial Housing Act (1955), S. 19 (Jun) 278H (FB)

—S. 21 — Right to file a Civil suit, seeking eviction of allottee, not taken away by the section — See Houses and Rents — U. P. Industrial Housing Act (U. P. Act No. 23 of 1955), Section 4 (Jun) 278C (FB)

—S. 21 — Section contravenes Article 14 of the Constitution and is void — See Constitution of India, Article 14 (Jun) 278E (FB)

—S. 21 (1) — The word 'may' — It does not mean 'shall' — Action under S. 21 (1) is permissive and not obligatory (Jun) 278B (FB)

—S. 21 (1) — Section violates principle of natural justice inasmuch as authority to prosecute and decide is the same — See Constitution of India, Article 226 (Jun) 278F (FB)

—S. 21 (1) — Section requires quasi-judicial procedure — Allottee's right of occupation is substantial enough to require procedural protection — Constitution of India, Articles 14, 19 (1) (f), 226 (Jun) 278G (FB)

—S. 21 (1) — Order under the section — Reasonable opportunity of being heard must be given before passing an order — See Constitution of India, Article 226 (Jun) 278L (FB)

—S. 21 (1) — Cancellation of allotment order — Procedure (Jun) 278M (FB)

—S. 21 (1) — Person to be evicted informed that he would be given a personal hearing by the officer on any working day within a month — Such composite order is not authorised by any provision of Act and does not satisfy requirements of natural justice (Jun) 278N (FB)

—S. 21 (1) and (2) — Order under Section 21 (2) can be made only when there is a legal order under Section 21 (1) (Jun) 278O (FB)

—U. P. (Temporary) Control of Rent and Eviction Act (3 of 1947), S. 3 — Grant of permission under Section 3 — District Magistrate is bound to consider need of tenant for accommodation. AIR 1964 All 7 (FB), held impliedly overruled by AIR 1965 SC 1767 (Oct) 474 (FB)

Income Tax Act (11 of 1922), S. 23-A (1) — Scope — Determination of profits and gains of Company available for distribution as dividend — Not the assessable income but the commercial or accounting profits to be considered — Held on facts and circumstances of case that the provisions of Section 23-A (1) were rightly applied (Aug) 383

Income-tax Act (1922) (contd.)

—S. 34 (1A) — Section 34 (1-A) operates on field of assessment for 1946-47 — Proceeding under section valid — See Income-tax Act (1922), Section 34 (1) (a) (Aug) 375 B

—Ss. 34 (1A) and 34 (1) (a) — Section 34 (1A) not violative of Article 14 of Constitution — Action can be taken either under Section 34 (1A) or 34 (1) (a) — See Constitution of India, Article 14 (Aug) 375C

—S. 34 (1) (a) — Assessee disclosing in original assessment proceedings that he had taken overdrafts against Call Deposit Account standing in name of P in a Bank — Assessee neither indicating what were those deposits nor explaining their original — Held acceptance of that statement did not mean that he had truly and fully disclosed all material facts necessary to assessment — I. T. O. was justified in initiating proceedings and completing assessment under Section 34 (1) (a) (Aug) 375A

—Ss. 34 (1) (a) and 34 (1-A) — Income escaped assessment for year 1946-47 amounting to more than one lakh rupees — Proceedings can be taken under either provision — Doctrine of implied repeal held not applicable — Section 34 (1) (a) and Section 34 (1A) operate on the same field for assessment year 1946-47 — It cannot be said that the two provisions are so inconsistent with or repugnant to each other that the two cannot stand together — Constitution of India, Article 254 (Aug) 375 B

—S. 34 (1) (a) — Scope — Non-disclosure of facts must result in escape of assessment (Aug) 387

—S. 35 — Repeated attempts to get mistake rectified unsuccessful — Delay in filing writ condonable — See Constitution of India, Art. 226 (Aug) 390A

—S. 35 (1) and (5) — Rectification of mistake in assessment order — Application for, by assessee — Duty of Income-tax Officer — Failure in — High Court can give proper direction — (Constitution of India, Art. 226) (Aug) 390C

—S. 66 (2) — Question whether certain item is capital or income does not involve a question of law — Decision of Appellate Tribunal thereon cannot be interfered in revision (Apr) 188

Income Tax Act (43 of 1961), S. 298 — Section is valid — See Constitution of India, Article 141 (Dec) 566A

—S. 298 — Income-tax (Removal of Difficulties) Order (No. 2 of 1963) — Order is not in excess of powers conferred by Section 298 or discriminatory in nature (Dec) 566B

Income-tax Amendment Act (43 of 1963), Preamble — U. P. Act 21 of 1965 — Does not conflict with the Act — See Constitution of India, Article 254 (Jun) 317F (FB).

Income Tax (Removal of Difficulties) Order (No. 2 of 1963) — Order is not in excess of powers conferred by Sec. 298 of Income-tax Act or discriminatory in nature — See Income Tax Act (1963), S. 298 (Dec) 566B

Industrial Disputes Act (14 of 1947), S. 2 (K) — In order that a dispute between an employer and its workmen may assume the nature of industrial dispute, it is necessary that dispute must be sponsored by Union of workers of the Company concerned or by a union of the workers employed in a similar or allied trade — See U. P. Industrial Disputes Act (23 of 1947), S. 6 (1) (3) (May) 242

—S. 10 — Dispute as to claim for bonus in a company manufacturing electrical goods sponsored by union of workers of metal industry — Reference by State Government is not competent — See U. P. Industrial Disputes Act (23 of 1947), Section 6 (1) (3) (May) 242

Institutes of Technology Act (59 of 1961), S. 26 — Statutes 12 and 13 framed under — Promotion to the higher post — Cannot be claimed as of right — Decision not to promote does not amount to imposing penalty (May) 213A

—S. 26 — Statute 12, Clause 3 (f) and Cl. 7 — Clause 7 is intended to operate where post is filled by promotion for period not exceeding 12 months — Post of Senior Stenographer not filled for temporary period of twelve months — Held that Selection Committee which considered cases of junior stenographers for promotion was one constituted under sub-clause (f) of Clause (3) (May) 213B

—S. 30 — Dispute as to promotion to post of Senior Stenographer — Dispute is not one arising out of contract between institute and employee — Section 30 (1) is not attracted (May) 213C

Interpretation of Statutes — Mandatory and directory provisions — When provision directory explained — See Civil P. C. (1908), Preamble (Aug) 390B

Land Acquisition Act (1 of 1894), S. 3 (a) — Lease-hold interests in land come within definition of expression 'land'. (1908) ILR 35 Cal 525 & AIR 1916 Pat 330 (1) Held no longer good law in view of AIR 1968 SC 1045 & AIR 1955 SC 298 (Dec) 604A

—Ss 4, 8 and 9 — Marking and measuring of land on spot have to be undertaken before notice under S. 9 is issued (Dec) 604B

—S. 6 (as amended by U. P. Act, 22 of 1954) — Notification under the section read with Section 17 (1) and (1A) — Validity — See Land Acquisition Act (1894), (As amended by U. P. Act 22 of 1954), Section 17 (1), (2), (1A) and (4) (May) 245 (FB)

Land Acquisition Act (contd.)

—S. 8 — Issue of notice under Sec. 9 — Marking and measuring of land on spot is essential — See Land Acquisition Act (1894), S. 4 (Dec) 604B

—S. 9 — Issue of notice under S. 9 — Marking and measuring of land on spot is essential — See Land Acquisition Act (1894), S. 4 (Dec) 604B

—S. 17 (1), (2), (1-A) and (4), Ss. 5-A and 6 (as amended by U. P. Act 22 of 1954) — Notification under Section 17 (4) can only be made in cases falling under Section 17 (1) and (2) and not in cases falling under Section 17 (1-A) — Acquisition of land for public purpose of establishing Irrigation Demonstration-cum-Research Farm falling under S. 17 (1-A) — Notification under Sec. 17 (4) held illegal (May) 245 (FB)

Legal Practitioners Act (18 of 1879), S. 6 — Repeal of certain provisions of Act — High Court's power to admit pleaders or renew certificates of existing ones abrogated with effect from 1-12-1961 — See Advocates Act (1961), Section 50 (2) (Mar) 112

—S. 7 — Repeal of certain provisions of Act — High Court's power to admit pleaders or renew certificates of existing ones abrogated with effect from 1-12-1961 — See Advocates Act (1961), Section 50 (2) (Mar) 112

—S. 13 — Professional misconduct involves moral turpitude — See Notaries Act (1952), Section 10 (d) (Jul) 363

Limitation Act (9 of 1908), S. 5 — Delay — Decree declaring discharge of employee illegal — Employee losing time in applying for reinstatement — Application for back wages filed beyond time — Delay cannot be condoned — See Payment of Wages Act (1936), S. 15 (2), First Proviso (Oct) 472C

—S. 10 — Assigns — Term includes legal representatives of assigns — Gift of trust property to B by trustee A — After B's death C, his widow, in possession — Suit by other trustees for possession against C — S. 10 applies (Feb) 72A

—S. 10, Art. 144 — Transfer without consideration of temple property by trustee — S. 10 applies — Transferee cannot hold adversely to deity (Feb) 72B

—S. 12 — Delay — Decree declaring discharge of employee illegal — Employee losing time in applying for reinstatement — Application for back wages filed beyond time — Delay cannot be condoned — See Payment of Wages Act (1936), S. 15 (2) First Proviso (Oct) 472C

—S. 14, Article 182 — Application for execution of decree — Return of, on illegal ground — Second application filed after expiry of three years from date of decree — Application is not time-barred — S. 14 is not attracted — Failure to challenge wrongful return of first application — Effect (Nov) 551B

Limitation Act (1908) (contd.)

—S. 20 — Section cannot extend period under Section 48 Civil P. C. (1908) — See Civil P. C. (1908), S. 48 (Sep) 441A (FB)

—S. 20 — Applicability — Civil P. C. (1908), Sections 48, 47, Order 21 Rule 11 — Decree dated 17-3-1938 — Execution application filed on 14-3-51 — Absence of acknowledgment in writing by judgment-debtor before 14-3-1951 — Decree-holder, held not entitled to claim benefit under S. 20, Limitation Act (Sep) 441B (FB)

—S. 28 — Redemption suit respecting mortgage in erstwhile Tehri Garhwal State — Right to file suit barred before the merger of State with Uttar Pradesh — Right not revived by application of Indian Limitation Act — Principles of Section 28 held applied, even when Tehri Garhwal Act did not contain similar provision — See Limitation Act (1908), Article 148 (Jan) 31

—S. 29 (2) — Governs period of limitation contained in Section 48, Civil P. C. (1908) — See Civil P. C. (1908), Sec. 48 (Sep) 441A (FB)

—Art. 99 — Applicability of S. 99 — Date of satisfaction of joint decree has to be considered (Aug) 409A

—Art. 99 — Civil P. C. (1908), O. 21, R. 89 — Suit for contribution by one of judgment-debtors on getting sale set aside on deposit — Limitation begins to run not from date of deposit but from date of order allowing application under O. 21, R. 89: AIR 1936 Mad 782 & AIR 1954 Mad 185 & AIR 1957 Orissa 224, Dissented from (Aug) 409B

—Arts. 102, 120 — "Wages" as used in Art. 102 — Includes salary and dearness allowance — Suit for arrears of salary and dearness allowance is governed by Art. 102 and not by Art. 120 (Nov) 542D

—Art. 120 — Suit for arrears of salary and dearness allowance — Governed by Art. 102 and not by Art. 120 — See Limitation Act (1908) Art. 102 (Nov) 542D

—Art. 144 — Transfer without consideration of temple property by trustee — Transferee cannot hold adversely to deity — See Limitation Act (1908), S. 10 (Feb) 72B

—Art. 148, S. 28 — Mortgage in erstwhile Tehri Garhwal State payable in 8 years — Stipulation that for first 4 years mortgagors not to redeem — Time runs from expiry of four years and suit for redemption could be filed within 11 years from this date under Art. 117 of Tehri Garhwal Limitation Act — Right to file suit barred before merger of State in State of Uttar Pradesh — Right not revived by application of Indian Limitation Act — Principles of Section 28 held applied, even when the Tehri Garhwal Act did not contain similar provision — Principle that mortgage will remain always a

Limitation Act (1908) (contd.)

mortgage held had no application — T. P. Act (1882), S. 60 (Jan) 31

—Art. 181 — Arbitration Act (1940), S. 20 — Application under S. 20 — Article 181 does not apply. AIR 1957 All 206, Overruled — AIR 1952 Punj 423 and AIR 1954 Cal 164 held no longer good law in view of AIR 1967 SC 990 — Construction put upon a provision of Act by judicial decisions is not affected by subsequent amendment of other unconnected provision of the Act (Nov) 518 (FB)

—Art. 182 — Art. 182 does not govern limitation under special law — Limitation under S. 48 Civil P. C. (1908), is governed by S. 29 (2) — See Civil P. C. (1908), S. 48 (Sep) 441A (FB)

—Art. 182 — Application for execution filed in time returned on illegal grounds — Fresh application after expiry of 3 years of decrees maintainable — See Limitation Act (1908), S. 14 (Nov) 551B

Limitation Act (36 of 1963), S. 5 — U. P. Sales Tax Act (15 of 1948), S. 9 (1), First Proviso and S. 9 (6) — Appeal under S. 9 (1) filed within time — Delay in depositing admitted tax — S. 5 which applies to appeals by virtue of Section 9 (6) of Sales Tax Act, held not attracted — Application for condonation of delay in depositing entire amount held not maintainable (Apr) 200B (FB)

—S. 5 — Expression 'Sufficient cause' meaning of — Mistake or negligence of counsel or his clerk is enough to constitute sufficient cause — Wrong and negligent advice as to forum of appeal — Appellant bona fide acting on such advice — Delay in filing appeal in proper Court — Erroneous finding as to sufficiency of cause after accepting facts alleged — Error of law — Interference in second appeal or revision permissible (May) 210

Mahomedan Law — Marriage — Dissolution — Hindu wife converting to Islam — Marriage does not automatically stands dissolved — Marriage with a Mahomedan — Legitimacy of child — AIR 1949 Cal 436, Dissented (Feb) 75

—Wakf — Applicability of doctrine of cy pres — See Mussalman Wakfs Validating Act (1913), S. 3 (Jan) 35C

—Wakf — Change brought about in it by Mussalman Wakf Validating Act, 1913 — See Mussalman Wakf Validating Act (1913), S. 1 (Jan) 35B

Medical Council Act (102 of 1956), S. 24 — Doctor luring woman into immorality — Whether should be allowed to practice — Decision rests with Indian Medical Council — See Criminal P. C. (1898), S. 32 (Oct) 489F

Motor Vehicles Act (4 of 1939), S. 2 (20) — Definition of word 'permit' does not make any distinction between permanent and temporary permit (Jun) 269A(FB)

Motor Vehicles Act (contd.)

—Ss. 44 (5), 68 and 68-G — U. P. State Road Transport Services (Development) Rules (1958), R. 10 — U. P. Motor Vehicles Rules (1940), R. 44A — Power of Regional Transport Authority under S. 44 (5) — Delegation of, to Secretary Member — Validity — W. P. No. 296 of 1963, D/- 7-8-1964 (All), **Overruled** (Jul) 365A (FB)

—Ss. 47 (3), 48 — Decision to increase number of permits and grant of same by R. T. A. in one and the same meeting — Two acts constitute two distinct and dissociated stages — Procedure not illegal. W. P. No. 1827 of 1963, D/- 3-3-1966 (All), **Reversed** (Jan) 14B

—S. 47 — Writ challenging temporary permit granted to another operator filed by rival operator — Maintainable — See Constitution of India, Art. 226

(Jun) 269B (FB)

—S. 48 — Tribunal remanding appeals, by two unsuccessful applicants, by common order — Joint writ petition against the order is maintainable — See Constitution of India, Art. 226 (Jan) 14A

—S. 48 — Fixation of number of permits to be granted and grant of permits in one and the same meeting — Procedure not illegal — W. P. No. 1827 of 1963, D/- 3-3-1966 (All), **Reversed** — See Motor Vehicles Act (1939), S. 47 (3) (Jan) 14B

—S. 62 — Temporary permit granted to another operator — Rival operator is entitled to maintain writ petition challenging the same — See Constitution of India, Art. 226 (Jun) 269B (FB)

—S. 64 — Appeal — Limitation — Rules as to — Rule making authority can prescribe rules as to time and manner of presenting appeal — See U. P. Motor Vehicles Rules (1940), R. 72 (Mar) 119A

—S. 64 — Appeal against grant of permits to eight persons — Appellate authority while considering question if or not appellant was better entitled to permit as against grantees not judging relative merits of all grantees, vis-a-vis appellant — Grant of permit to appellant after cancelling permit of one of grantees — Order based on comparison between claim of appellant and that of the grantee — Order cancelling permit is vitiated (Mar) 119B

—Ss. 68 and 68G — Power of Regional Transport Authority, under Section 44 (5) of the Act — Delegation of, to Secretary Member — Validity — W. P. No. 296 of 1963, D/- 7-8-1964 (All), **Overruled** — See Motor Vehicles Act (1939), S. 44 (5)

(Jul) 365A (FB)

—S. 68G — Temporary permit granted to another operator — Rival operator entitled to maintain petition challenging the same — See Constitution of India, Art. 226 (Jun) 269B (FB)

—S. 68-G — Interpretation of (Jul) 365B (FB)

MUNICIPALITIES

—U. P. Municipalities Act (2 of 1916), S. 2 (17) (i) — Word "prescribed" — Meaning — See Municipalities — U. P. Municipalities Act (2 of 1916), S. 160 (Apr) 177A

—S. 57 — Terms and conditions of Service of Executive Officer to be laid down by Municipal Board and by no other authority — See Constitution of India, Art. 309 (Oct) 480A

—S. 57 (3) — Officer holding officiating post of Addl. Executive Officer — State Government or Administrator Nagar Mahapalika cannot be compelled to carry out obligations contained in Rule 22 of Fundamental Rules when that rule did not apply to the Officer — See Constitution of India, Article 226 (Oct) 480B

—S. 128 (1) — Property tax levied under S. 173 (1) of U. P. Adhiniyam (2 of 1959) corresponds with taxes contemplated under S. 128 (1) — See Municipalities — U. P. Nagar Mahapalika Adhiniyam (2 of 1959), S. 577 (d) (Aug) 393A

—Ss. 160, 296, 2 (17) (i) — Words "as may be prescribed" in S. 160 (2) means "as may be prescribed, by State Government" — Assessment to tax on annual value of certain buildings and lands — State Government may prescribe appellate authority without framing rule under S. 296 (Apr) 177A

—S. 160 (2) — Appellate Authority has power to take additional evidence (Apr) 177B

—S. 296 — Appellate authority — Government may prescribe such authority without framing rule under the section — See Municipalities — U. P. Municipalities Act (2 of 1916), S. 160 (Apr) 177A

—U. P. Nagar Mahapalika Adhiniyam (2 of 1959), S. 173 (1) — Levy of property tax — Same character to corresponding taxes under S. 128 (1) of U. P. Act (2 of 1916) — See Municipalities — U. P. Nagar Mahapalika Adhiniyam (2 of 1959), Section 577 (d) (Aug) 393A

—S. 213 (1) (e) — Municipal Board reconstituted as "Mahapalika" — Assessment list by Municipal Board can be adopted and Taxes can be raised — See Municipalities — U. P. Nagar Mahapalika Adhiniyam (2 of 1959), S. 577 (d) (Aug) 393A

—S. 476 — Order of District Judge ambiguous — Tax payer can apply to District Judge for clarification — See Constitution of India, Art. 226 (Aug) 393B

—Ss. 577 (d), 173 (1), 213 (1) (e) — U. P. Municipalities Act (2 of 1916) Sec. 128 (1) — Assessment list prepared under Municipalities Act — Adoption of, under Adhiniyam — Alteration in rates of taxes — Validity (Aug) 393A

Municipalities (contd.)

—U. P. Town Areas Act (2 of 1914), S. 14 (1) (f) — Validity — Circumstances and property tax comes within Sch. 7, List II, Items 49 and 60 of the Constitution = Provision is intra vires State Legislature (Jan) 40B (FB)

Mussalman Wakf Validating Act (6 of 1913), Ss. 1 and 5 — Retrospective operation given by Act of 1930 — Effect — (Mussalman Wakf Validating Act (1930), S. 2) (Jan) 35A

—Ss. 1, 3, 4 — Change brought about by Act in Muhammadan law as to wakf indicated (Jan) 35B

—S. 2 — Retrospective operation given to Mussalman Wakf Validating Act, 1913 — Effect — See Mussalman Wakf Validating Act (1913), S. 1 (Jan) 35A

—S. 3 — Change brought about by Act in Muhamadan Law of Wakf indicated — See Mussalman Wakf Validating Act (1913), S. 1 (Jan) 35B

—Ss. 3 and 4 — Wakf for the maintenance of wakif and his family — Ultimate benefit reserved for religious or charitable purpose (upkeep of Madarsa) — Intermediate beneficiary outside class of persons contemplated by S. 3 (a) — Wakf is not thereby rendered invalid at its inception — Only effect is to cut out invalid disposition — Benefit of wakf is accelerated and goes to ultimate charitable purpose — Doctrine of cy pres — Scope and applicability (Jan) 35C

—S. 4 — Muhammadan law as to Wakf — Change brought about in it by the Act of 1913 indicated — See Mussalman Wakf Validating Act (1913), S. 1 (Jan) 35B

—S. 4 — Wakf for the maintenance of Wakif and his family — Ultimate benefit reserved for religious or charitable purpose — Intermediate beneficiary outside class of persons contemplated by S. 3 (a) — Wakf is not rendered invalid at its inception — See Mussalman Wakf Validating Act (1913), S. 3 (Jan) 35C

—S. 5 — Retrospective operation given by Act of 1930 — Effect — See Mussalman Wakf Validating Act (1913), S. 1 (Jan) 35A

Notaries Act (53 of 1952), S. 5 — Delay in issue of certificate signed much earlier — Inference of mala fide could not be drawn — See Constitution of India, Art. 226 (Apr) 195D

—S. 8 (1) (e) — Certificate or endorsement by Notary Public on affidavit — Falls within Art. 42 of Sch. 1 of Stamp Act (1899) — Stamp Act (1899) Sch. 1 Art. 42 (Apr) 195B

Notaries Act (contd.)

—S. 10 — Notaries Rules (1956), R. 13 — Enquiry under R. 13 — Absence of allegation of professional misconduct — Report of Competent Authority — Notification of State Government based on such report, held not valid (Apr) 195A

—S. 10 — Notaries Rules (1956), Rules 11 (2), 11 (9), 13 — Under Rule 11 (2) no entry need be made in notarial register in respect of affidavits — Requirement in regard to maintenance of register under Rule 11 (9) showing all fees and charges does not imply the entry of particulars of affidavits themselves in that register — Enquiry under Rule 13 — Charge in regard to failure on part of Notary Public concerned to enter affidavits in register — Finding of Competent Authority that Notary Public failed to maintain register under Rule 11 (9) — Finding held not in consonance with the charge and suffered from apparent error of law (Apr) 195C

—S. 10 — Delay in issue of certificate signed much earlier — Inference of mala fide could not be drawn — See Constitution of India, Article 226 (Apr) 195D

—S. 10 (d) — Removal of name of a Notary from register necessarily implies cancellation of certificate — Cancellation of certificate does not per se amount to perpetual debarment from practice (Apr) 195E

—S. 10 (d) — Scope — Section contemplates professional and other misconduct — Professional misconduct involves moral turpitude — Charges not indicating professional misconduct — Notification barring notary from practising as notary on ground that he was found unfit to practise on grounds of professional misconduct, quashed (Jul) 363

Notaries Rules (1956), R. 11 (2) and (9) — No entry need be made in notarial register in respect of affidavits — See Notaries Act (1952), Section 10 (Apr) 195C

—R. 13 — Enquiry under the rule — Absence of allegation of professional misconduct — Report of competent authority — Notification of State Government based on such report, held not valid — See Notaries Act (1952), Section 10 (Apr) 195A

—R. 13 — Enquiry under — Charge in regard to failure on part of the Notary Public concerned to enter affidavits in register — Finding of Competent Authority as to his failure to maintain register under Rule 11 (9) — Finding, held not in consonance with the charge and suffered from apparent error of law — See Notaries Act (1952), Section 10 (Apr) 195C

PANCHAYATS

—U. P. Kshettra Samitis and Zila Parishads Adhiniyam (U. P. Act 33 of 1961), Ss. 13, 26 — Election of Adhyaksha of Zila Parishad — Act mentioning qualifications and disqualifications of being Adhyaksha — Person elected not qualified — Aggrieved person can present petition raising the question even though there are no provisions in the Act for the grounds to be set out in petition seeking to set aside election of Adhyaksha (Feb) 65A

—S. 13 (c) — Person performing duties of Honorary Magistrate — Sar Panch of Nyaya Panchayat is not such a person and is not disqualified from being elected as Adhyaksha of Zila Parishad — Criminal P. C. (1898), Sections 12 and 14 — U. P. General Clauses Act (1 of 1904), Section 3 (32) (Feb) 65B

—S. 13 (c) — Nomination paper of one of the candidates to the election of Adhyaksha of Zila Parishad improperly rejected — This is sufficient to invalidate the election of the only remaining candidate — The result of the election is materially affected — Fact that elected candidate belonged to majority party is of no avail — Panchayats — U. P. Zila Parishads (Election of Adhyaksha and up-Adhyaksha and Settlement of Election Disputes) Rules (1961), Rule 13 — Representation of the People Act (1951), Section 100 (Feb) 65C

—S. 26 — Election of Adhyaksha of Z. P. — Elected person not qualified — Challenge to his election — Grounds for — Provision in the Act — See Panchayats — U. P. Kshettra Samitis and Zila Parishads Adhiniyam (U. P. Act 33 of 1961), Section 13 (Feb) 65A

—U. P. Zila Parishads (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules (1961), R. 13 — Improper rejection of nomination paper — Effect on election — See Panchayats — U. P. Kshettra Samitis and Zila Parishads Adhiniyam (U. P. Act 33 of 1961), Section 13 (c) (Feb) 65C

Partnership Act (9 of 1932), S. 42 — Death of partner before suit — Maintainability of suit — See Civil P. C. (1908), Order 30, Rule 1 (Mar) 129

Payment of Wages Act (4 of 1936), S. 15 (2), Provisos and (3) — Application filed beyond prescribed period — Condonation of delay can be challenged in appeal — See Payment of Wages Act (1936), Section 17 (Oct) 472A

—S. 15 (2) — "Deduction" — Non-payment of Wages to employee (whether

Payment of Wages Act (contd.)

wholly or in part) for period between his wrongful dismissal and re-instatement — It is a case of deduction and is covered by Section 15 (2) (Oct) 472B

—S. 15 (2), First Proviso — Decree declaring that order discharging employee is illegal — Limitation for claiming back wages starts from date of decree — Employee making several representations for his re-instatement for about a year — Application for back wages filed after expiry of limitation cannot be condoned on that ground (Oct) 472C

—Ss. 17, 15 (2), Provisos and (3) — Application under Section 15 filed beyond period of six months prescribed in first proviso — Delay condoned under second proviso — Propriety of order admitting application after prescribed period can be challenged in appeal — District Judge can, under Section 17 set aside that order and hold the claim to be time barred (Oct) 472A

Penal Code (45 of 1860), S. 68 — Imprisonment in default of fine — Undergoing of imprisonment does not operate as discharge or satisfaction of fine — See Criminal P. C. (1898), S. 386 (1), Proviso (Mar) 116

—S. 69. — Imprisonment in default of fine — Undergoing of imprisonment does not operate as discharge or satisfaction of fine — See Criminal P. C. (1898), Section 386 (1), Proviso (Mar) 116

—S. 120-B — Absence of charge of conspiracy — Numerous charges of deception not forming part of one transaction cannot be clubbed in one charge — See Criminal P. C. (1898), Section 234 (1) (Oct) 489A

—Ss. 141 and 143 — Unlawful assembly — Common object should be one of those specified in Section 141 — Election meeting — Some persons carrying firearms — Do not become members of unlawful assembly merely on that ground — What prosecution has to prove — Assembly lawful at its inception when becomes unlawful (Mar) 130A

—S. 141 — Unlawful character of assembly has to be determined under Section 141 — See Criminal P. C. (1898), Section 127 (Mar) 130B

—S. 142 — Scope and interpretation — Being a member of an unlawful assembly — Conditions for applicability — Actual knowledge of facts rendering assembly into unlawful assembly and intentional joining or continuing in it essential — Assembly lawful at its inception — Some members forming themselves into unlawful assembly — Mere

Penal Code (contd.)

physical presence of all persons cannot make them members of unlawful assembly (Mar) 130C

—S. 143 — Unlawful assembly — Common object must be one of those specified in Section 141 — See Penal Code (1860), Section 141 (Mar) 130A

—S. 295-A — Validity — Does not violate Articles 25 and 26 of the Constitution — Rights under those Articles are subject to public order, morality and health — Ingredients of Section 295-A — Deliberate and malicious intention of outraging religious feelings — Scope of (Sep) 436C

—S. 300, Exception 1 — Murder — Grave and sudden provocation — What amounts to — Burden of proof (Feb) 61A

—S. 302 — Murder — Sentence — Accused himself found responsible for giving provocation — He chased the woman, threw her on ground showered knife blows on vital parts of body and virtually butchered to death on spot — Crime being committed in a most inhuman and brutal manner, death penalty awarded to accused, held was fully deserved — Accused could not claim any lenient consideration (Feb) 61B

—Ss. 361, 363 and 366 — Accused taking or enticing 5 year old girl out of keeping of lawful guardian without consent of mother in the absence of father and subsequently committing rape on girl — No proof of any intention of rape at the time of kidnapping — Conviction under Section 366 is improper — Conviction under Sections 363 and 375 is valid (May) 216B

—S. 361 — "Takes or entices" — Taking when is complete — There must be taking of a child out of keeping of parents — Consent of child immaterial — Form of enticement not confined to offering sweetmeats — Even enticing away of a child playing on a public road is sufficient (May) 216C

—S. 363 — Accused taking or enticing five year old girl out of lawful guardianship without consent of mother in absence of father and subsequently committing rape on girl — No proof of any intention of rape at the time of kidnapping — Conviction under Sections 363 and 375 valid — See Penal Code (1860), Section 361 (May) 216B

—S. 366 — Taking or enticing 5 year old girl out of keeping of lawful guardian without consent of mother in the absence of father and subsequently committing rape on her — No proof of intention to rape at the time of kidnapping — Offence under S. 366 is not made out — See Penal Code (1860), Section 361 (May) 216B

Penal Code (contd.)

—S. 375 — Laceration of hymen, posterior perinaeum and vaginal walls of victim — Absence of injury on person of accused, and particularly penis, cannot be sole ground for discarding prosecution evidence (May) 216A

—S. 376 — Charges under Sections 493, 376, 417 — Element of deception common to all charges — Deception negated for offences under Sections 493 and 376 — Third charge must fail unless amended — See Penal Code (1860), Section 417 (Oct) 489C

—S. 376 — Held, on facts there could be no case either of cheating or of rape — See Penal Code (1860), Section 493 (Oct) 489E

—S. 406 — Main offence under Section 471 — Mere fact that Sections 406, 467 and 420 are tacked to it does not take away the case out of ambit of Section 195 (1) (c), Criminal P. C. — See Criminal P. C. (1898), Section 195 (1) (c) (Apr) 189B

—S. 417 — Ingredients — Numerous deliveries of properties alleged due to deception — Deliveries over period of years — No unity of purpose — All transactions cannot form single charge under Section 417 — See Criminal P. C. (1898), Section 234 (1) (Oct) 489A

—S. 417 — Charge under Section 417 can be added in a case where accused is standing trial under Section 493 if Court approves request of complainant — See Criminal P. C. (1898), Section 226 (Oct) 489B

—Ss. 417, 493 and 376 — Conviction — Charges under Sections 493, 376 and 417 — Accused alleged to have deceived complainant into belief that she was his legally wedded wife — Under that belief, complainant stated to have given money and jewellery to accused — Element of deception common to all charges — Such element negated for first two charges — Accused cannot be convicted on third charge without amending it and without giving him sufficient notice of such deception — Third charge also must fail along with other two — Third charge devoid of necessary particulars as to time, place and manner of alleged cheating — Case against accused pending for nearly 10 years — Sessions trial protracted for over one year — Civil suit between accused and complainant on their inter se financial liabilities pending — In such circumstances remand of case for fresh trial on third charge not expedient in the interest of justice (Oct) 489C

—S. 417 — Held, on facts there could be no case either of cheating or of rape — See Penal Code (1860), Section 493 (Oct) 489E

Penal Code (contd.)

—S. 420 — Main offence under S. 471 — Other offences including one under Section 420 flowing from it — Mere tacking of other offences to Section 471 will not take case out of ambit of Section 195 (1) (c), Criminal P. C. — See Criminal P. C. (1898), Section 195 (1) (c) (Apr) 189B

—S. 467 — Main offence under S. 471 — Other offences including one under Section 467 flowing from it — Mere tacking of other offences to Section 471 will not take case out of ambit of S. 195 (1) (c), Criminal P. C. — See Criminal P. C. (1898), Section 195 (1) (c) (Apr) 189B

—S. 471 — Mere tacking of other offence to Section 471 will not take the case out of Section 195 (1) (c), Criminal P. C. — See Criminal P. C. (1898), Section 195 (1) (c) (Apr) 189B

—S. 493 — Trial under Section 493 — Complainant alleging cheating also — Court can add charge under Section 417, Penal Code — See Criminal P. C. (1898), Section 226 (Oct) 489B

—S. 493 — Charges under Ss. 493, 376, 417 — Element of deception common to all charges — Deception negated for offences under Sections 493 and 376 — Third charge must fail unless amended — See Penal Code (1860), Section 417 (Oct) 489C

—Ss. 493, 376 and 417 — Complainant, a Sikh educated woman, about 30 years' old and mother of four children — Complainant coming in contact with a doctor as his patient and developing intimacy — Complainant staying away from home and husband, an officer, for nearly 15 years and having sexual connections with doctor during that period — Complainant claiming to have become married to the doctor-accused, once in presence of moon later according to Hindu rites and then according to Sikh faith — Complainant also alleging to have been induced by accused to believe that she was his legally wedded wife and under that belief, to have given money and jewelleries to him — Alleged marriage with accused kept concealed from previous husband all along — Letters and Articles sent to complainant by accused addressed only as wife of former husband — Complainant not protesting to such form of address — In notice sent by complainant to accused no mention of such marriages and alleged inducement to her made — In such a case, accused is only a paramour and complainant his concubine — Allegation of inducement of complainant to cohabit with accused on the belief of lawfully wedded wife wholly incredible — Hence charges against accused under Sections 493 and 376 must fail — Evidence of money transactions between accused and complainant not

Penal Code (contd.)

showing a case of cheating — Complainant in evidence stating to have given jewellery as security for loan given by accused and not on any false representation — Hence charge under Section 417 also must fail (Oct) 489E

—S. 499, First Exception — Onus is on accused to bring his case within exception — Charge of defamation — Plea of good faith — Principal refusing admission to a girl in College — Matter communicated to higher authority by parent — Authority writing to Inspectress of Schools with copy to Principal — Principal in reply to Authority, making unfounded imputations to character of girl — No evidence that duty of giving reply was entrusted to Principal — Defence of good faith held not made out in the case (Sep) 423A

—S. 499 — Defamation — Can be direct or indirect — Defamation of girl by making imputations of unchastity — Girl described as daughter of 'X' — 'X' is indirectly defamed (Sep) 423C

—S. 499 — Complaint by father on his own and on behalf of daughter who is directly aggrieved — Complaint can be treated as filed by father alone, if not covered by Section 198 (Proviso), Criminal P. C. (1898) — See Criminal P. C. (1898), Section 198, Proviso (Sep) 423D

—Ss. 499, 500 — Publication under Section 499 — Letter containing imputations in respect of some other person — Addressee not examined — Addressee is the only person to whom imputations communicated — No evidence as to receipt and reading of imputations — There is no publication — Conviction under Section 500 is not maintainable (Sep) 423E

—S. 500 — Publication — Letter containing imputation against 'X' addressed to 'Y' — Y not examined — No evidence as to receipt of letter and reading of imputation — Conviction not maintainable — See Penal Code (1860), Section 499 (Sep) 423I

Prevention of Corruption Act (2 of 1947), S. 5-A — Investigation by officer under Prevention of Corruption Act (1947) — Officer not empowered under Sec. 5-A, 1947 Act — Investigation illegal — Accused not entitled to copies of statements recorded in illegal investigation — See Criminal P. C. (1898), Section 161 (Oct) 503

Prevention of Food Adulteration Act (37 of 1954), S. 7 (1) — Prosecution under — Evidence and Proof — See Prevention of Food Adulteration Act (1954), Section 10 (7) (Mar) 109B
—S. 7 (1) — Punishment — See Prevention of Food Adulteration Act (1954), Section 16 (Mar) 109D

Prevention of Food Adulteration Act (contd.)

—S. 9 — Food Inspector not possessing diploma necessary for being appointed as Sanitary Inspector — Government by Order D/- 1-11-1962 permitting unqualified sanitary inspectors to continue to work in that capacity subject to their being successful in special examination — Food Inspector taking sample from accused on 8-8-1963 which led ultimately to his conviction — Qualification on the result of the special examination attained by Food Inspector in Nov. 1963 — Held, that he was not a Food Inspector within the meaning of Section 9 on the date of taking sample and the Government Order could not confer on him the powers of the Food Inspector under the Act (Oct) 478

—S. 10 (7) — Interpretation of — Requirement of presence of two witnesses is mandatory — Exception — Evidence must show impossibility in complying with the requirement (Feb) 80

—S. 10 (7) — Prosecution for offences under Section 16 read with Section 7 (1) of the Act — Two persons called at the time the sample was taken — Their signature also taken by the Food Inspector — Held, the requirements of Section 10 (7) were fully complied with (Mar) 109A

—Ss. 10 (7), 16 and 7 (1) — Prosecution under — Evidence and proof (Mar) 109B

—S. 10 (7) — Criminal P. C. (1898), Section 103 — Taking of sample of adulterated milk by Food Inspector — Witnesses — There is no requirement that they should be respectable persons as is the requirement under Section 103, Criminal P. C. in case of search — Irregularity if any cannot vitiate the taking of sample from the accused (Mar) 109C

—S. 16 — Prosecution under — Evidence and proof — See Prevention of Food Adulteration Act (1954), Section 10 (7) (Mar) 109B

—Ss. 16 and 7 (1) — Punishment (Mar) 109D

Provincial Insolvency Act (5 of 1920), S. 59 — Sale by receiver of property worth more than Rs. 100=00 P needs registration — See Administration of Evacuee Property Act (1950), S. 10 (2) (o) (Nov) 554

Public Gambling Act (3 of 1867), S. 13 — Gambling — Offence of, when complete — Doing something by either of parties to bet, which decides who won bet, is necessary — Offer and acceptance of bet — Amounts to making preparation for gambling — Not punishable under Section 13 (Apr) 183

Registration Act (16 of 1908), Pre. — History of Registration Act, traced —

Registration Act (contd.)

See Administration of Evacuee Property Act (1950), Section 10 (2) (o) (Nov) 554

—S. 2 (6) — Gift of cash in favour of a deity — Document does not require registration — See Registration Act (1908), Section 17 (May) 248I

—Ss. 17, 2 (6) — Document making a gift of cash in favour of a deity does not require registration (May) 248I

Religious and Charitable Endowments —

Concept and early history of charitable and religious trusts, right from the period of Roman law traced.. with special reference to property gifted to the institution and the ownership of such property — In this connection law of gifts to corporation and corporation sole under English law also discussed — Hindu juridical notions regarding gift to God and charitable institutions also discussed — Case-law referred — Transfer of Property Act (1882), Section 122 — Hindu law (May) 248L

—Radhaswami faith and Dayalbagh — Tenets of Radhaswami faith and history of Dayalbagh institution at Agra traced (May) 248H

Representation of the People Act (43 of 1951), S. 67-A — Object of — See Constitution of India, Article 183 (a) (Feb) 56A

—S. 74 — Notification under — Effect of — See Constitution of India, Art. 183 (a) (Feb) 56A

—Ss. 77 and 123 (6) — Corrupt practice — Irregularity in maintaining accounts — Does not fall under Sec. 123 (6) (Feb) 88D

—S. 100 — Nomination paper — Improper rejection — Effect on election — See Panchayats — U. P. Kshettra Samitis and Zila Parishads Adhinyam (U. P. Act 33 of 1961), Section 13 (c) (Feb) 65C

—S. 123 (6) — Irregularity in maintaining accounts — Does not fall under Section 123 (6) — See Representation of the People Act (1951), Section 77 (Feb) 88D

—S. 157 — Elected persons — Commencement of terms — Dy. Chairman of Legislative Council ceasing to be member by virtue of his election in 1962 and again becoming member by virtue of election in 1968 — Notionally there was a break in the eye of law — See Constitution of India, Article 183 (a) (Feb) 56A

SALES TAX

—Central Sales Tax Act (74 of 1956), Ss. 3, 6, 8 and 9 — Constitution of India, Articles 1 (1) and 1 (2), Sch. I, Serial No. 15 — Sales from a dealer in U. P. to dealers in J. & K. State — Inter-State sales — Exemption cannot be claimed (Nov) 516A

Sales Tax — Central Sales Tax Act (contd.)

—S. 5 — Sale in course of export — Sale must occasion export — See Constitution of India, Article 286 (1) (b)

(Apr) 205 (FB)

—S. 6 — Sales from dealer in U. P. to dealers in J. & K. State — Liable to tax as inter-State sales — See Sales Tax — Central Sales Tax Act (1956), S. 3

(Nov) 516A

—S. 8 — Sales from dealer in U. P. to dealers in J. & K. State — Liable to tax as inter-State sales — See Sales Tax — Central Sales Tax Act (1956), S. 3

(Nov) 516A

—S. 8 — Authority created under Act — Not competent to pronounce upon vires of provision of the Act — High Court also not competent to do so on reference — See Sales Tax — U. P. Sales Tax Act (15 of 1948), S. 11

(Nov) 516B

—S. 9 — Sales from dealer in U. P. to dealers in J. & K. State — Liable to tax as inter-State sales — See Sales Tax — Central Sales Tax Act (1956), S. 3

(Nov) 516A

—U. P. Sales Tax Act (15 of 1948), S. 3

— Sale in course of export — Meaning — See Constitution of India, Article 286 (1) (b)

(Apr) 205 (FB)

—S. 9 (1), First Proviso — U. P. Sales Tax Rules (1948), Rule 66 (2) — Word "entertained" in First Proviso to S. 9 (1), meaning of — Appeal against assessment order — Entire admitted tax must be deposited within period of limitation — Manner of furnishing proof of payment is of secondary importance — Observations of the Supreme Court to this effect in AIR 1968 SC 488 are not obiter and are binding — (1963) 14 STC 518 (All), Overruled

(Apr) 200A (FB)

—S. 9 (1), First Proviso — Appeal against assessment filed within time — Delay in depositing admitted tax — Section 5, Limitation Act held not attracted — Application for condonation of delay held not maintainable — See Limitation Act (1963), Section 5

(Apr) 200B (FB)

—S. 9 (6) — Deposit of admitted tax in appeal against assessment — Section 5, Limitation Act, 1963, which applies to appeals under Section 9 (1) by virtue of Section 9 (6) held not attracted — See Limitation Act (1963), Section 5

(Apr) 200B (FB)

—S. 11 — Central Sales Tax Act (1956), S. 8 — Authority created under statute — Not competent to pronounce upon vires of provision of statute — Same cannot be done by High Court in reference

(Nov) 516B

—U. P. Sales Tax Rules (1948), R. 66 (2) — Appeal against assessment order — Entire admitted tax must be deposited within period of limitation — Proof of

Sales Tax — U. P. Sales Tax Rules (contd.)

payment — See Sales Tax — U. P. Sales Tax Act (15 of 1948), Section 9 (1)

(Apr) 200A (FB)

Sea Customs Act (8 of 1878), S. 189 — Applicability to Central Excises and Salt Act (1944) — See Central Excises and Salt Act (1944), Section 12

(Nov) 524

Societies Registration Act (21 of 1860), Ss. 1, 2, 3, 19 — Certified copy of registration of society under Act produced — Presumption as to signature of persons on memorandum of association under Section 19 of the Act and under Section 114, Illus. (e), Evidence Act are rebuttable — Evidence Act (1872), Section 114, Illus. (e)

(May) 248C

—S. 2 — Registration of society — Duty of Registrar — See Societies Registration Act (1960), Section 1

(May) 248C

—S. 3 — Registrations of society — Duty of Registrar — See Societies Registration Act (1960), Section 1

(May) 248C

—S. 6 — Civil P. C. (1908), Order 1, Rule 10; Order 29, Rule 1 — Suit brought in the name of society through its secretary who was named — Suit as laid is valid — The provision in Section 6 which begins with the words "may sue or be sued" in the name of one of its officers cannot take away the right of the Society itself to sue or be sued in its own name — Section 6 is merely an enabling provision

(May) 248G

—S. 13 — Manner of dissolution of society is indicated in Section 13 — By-law of society that it shall stand dissolved in case no Sant Sad Guru reappeared within two years of the death of the last Sant Sad Guru militates against Sec. 13 and must therefore be deemed to be invalid and inoperative

(May) 248F

—S. 19 — Certified copy of registration of society produced — Presumption as to signature of persons on memorandum of association under Section 19 is rebuttable — See Societies Registration Act (1860), Section 1

(May) 248C

—S. 20 — Society for charitable purposes — Some objects religious but dominant object, charitable — Society can be registered

(May) 248E

Special Marriage Act (43 of 1954), S. 36 — Order under Section 36 — Appeal lies under Section 39 — See Special Marriage Act (1954), Section 39

(Dec) 603

—Ss. 39 and 36 — Order under Section 36 — Appeal lies under Section 39

(Dec) 603

Specific Relief Act (1 of 1877), S. 39 — Discretionary relief asked for — Effect of, on question of jurisdiction — See Civil P. C. (1908), Section 9

(Nov) 526C (FB)

Specific Relief Act (contd.)

—S. 42 — Suit for mere declaration that suit property belongs to the plaintiff and that the defendants in occupation are mere licensees, without a prayer for their ejectment is maintainable
(May) 2480

Stamp Act (2 of 1899)

See under Stamp Duty.

STAMP DUTY

—Stamp Act (2 of 1899), Sch. I, Art. 42
— Notaries Act (1952), Section 8 (1) (e)
— Certificate or endorsement by Notary Public on affidavits falls within Article 42 so as to require notarial stamp
(Apr) 195B

State Legislature Members Prevention of Disqualifications Act (U. P. Act 19 of 1951), S. 3 — Person appointed Adjutant under executive orders prior to coming into force of U. P. Home Guards Act, 1963 — Holds an "office of profit" within Art. 191, under U. P. Government — See Constitution of India, Article 191
(Feb) 88B

—S. 3 — Panel lawyer of Gaon Sabhas at Tehsil H. Q. — Holds an office of profit within Article 191 of the Constitution — See Constitution of India, Art. 191
(Feb) 88C

State Legislature Members (Prevention of Disqualifications) (Second) Act (U. P. Act 13 of 1952), S. 3 (2) — Person appointed as Adjutant of Home Guards under executive orders prior to enforcement of U. P. Home Guards Act, 1963 — Holds an office of profit under U. P. Govt. — See Constitution of India, Article 191
(Feb) 88B

—S. 3 (2) — Panel lawyer of Gaon Sabha — Holds an office of profit within Article 191 of the Constitution — See Constitution of India, Article 191
(Feb) 88C

Sugar-cane Control Order (1966), Cl. 6 — Order under Cl. 6 (1) (a) by Cane Commissioner, Bihar at Patna, reducing area for sugar-cane purchase reserved for petitioner's sugar factory situate in U. P. — Another order allotting excluded area for respondent's Sugar Factory in Bihar — Allahabad High Court has no jurisdiction to entertain petition for quashing these orders — See Constitution of India, Article 226 (1-A)
(Mar) 105A

—Cl. 6 (1) — Order under Cl. 6 (1) (a) reserving particular area for sugar factory — Effect of
(Mar) 105B

Telegraph Wires (Unlawful Possession) Act (74 of 1950), S. 7 — Magistrate, not agreeing with final report submitted, ordering submission of fresh charge-sheet after reinvestigation — Validity — See Criminal P. C. (1898), Section 190 (1) (c)
(May) 241A

TENANCY LAWS

—**U. P. Consolidation of Holdings Act (5 of 1954), Pre.** — Object and interpretation
(Jul) 342C (FB)

—S. 11 — Decision of Consolidation Officer — Finality in matters dealt with in Section 11 (1) — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12
(Jul) 342A (FB)

—Ss. 12, 11, 19, 20, 21, 22, 23, 38 and 48 — Prior to amendment of 1958 — Scheme of Section 12 — Objection under Section 12 claiming sirdari right in land under consolidation — Dismissal — Decision of Consolidation Officer not attaining finality due to pendency of revision under Section 48 — Same objection cannot be raised under Section 20 — Publication of statement of tenure-holders under Section 19 does not operate as stay of proceedings under Section 12 by virtue of Section 22 (2) — Clerical error or error apparent on face of record — Power to correct under Section 38 — When can be exercised — 1965 R. D. 12, (All), Overruled
(Jul) 342A (FB)

—S. 12 — Consolidation proceedings — Applicability of principles of res judicata — See Civil P. C. (1908), Sec. 11
(Jul) 342E (FB)

—Ss. 12, 54 — Rules under Section 54, Rule 34 — Rule 34 (3) which provides for appeal against order of Consolidation Officer in proceedings under Section 12 is as much part of the Act as any other provision of Act and is a valid provision in existence from very inception of Act
(Jul) 342G (FB)

—S. 12 (4) and (3) — Determination, meaning of — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (1 of 1951), Section 332
(Aug) 407

—S. 12 (7) — Scope and object — Section creates an estoppel by record and cannot be used to cut down application of doctrine of res judicata — (Civil P. C. (1908), Section 11) — (Evidence Act (1872), Section 115)
(Jul) 342F (FB)

—S. 19 — Publication of statement of tenure-holder under Section 19 does not operate as stay of proceeding under Section 12 — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12
(Jul) 342A (FB)

—S. 20 — Objection under Section 12 — Same cannot be raised under Sec. 20 — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12
(Jul) 342A (FB)

—S. 20 — Consolidation proceedings — Applicability of principles of res judicata — See Civil P. C. (1908), S. 11
(Jul) 342E (FB)

—S. 21 — Section does not cover revision under Section 48 — See Tenancy Laws — U. P. Consolidation of Holdings

Tenancy Laws — U. P. Consolidation of Holdings Act (contd.)

Act (5 of 1954), Section 12

(Jul) 342A (FB)

—S. 22 — Publication of statement of tenure holder under Section 19 does not operate as stay of proceeding under Section 12, by virtue of Section 22 (2) — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12

(Jul) 342A (FB)

—S. 22 (2) — Term Court in Section 22 (2) does not include consolidation authorities

(Jul) 342D (FB)

—S. 23 — Confirmation of proposals under the section does not deprive High Court of its powers under Article 226 of the Constitution — See Constitution of India, Article 226

(Jun) 304B (FB)

—S. 23 — Statement of proposal attaining finality — Power to correct — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12

(Jul) 342A (FB)

—S. 38 — Power to correct any document prepared under the Act — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12

(Jul) 342A (FB)

—S. 47 (as amended in 1958 and 1963) — Scope — See Constitution of India, Article 226

(Jun) 304B (FB)

—S. 48 (as amended in 1958 and 1963) — Scope — See Constitution of India, Article 226

(Jun) 304B (FB)

—S. 48 — Pendency of revision under Section 48 — Decision of Consolidation Officer does not attain finality — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12

(Jul) 342A (FB)

—S. 52 — High Court can issue appropriate writs, orders for directions to consolidation authority, even after proposals are confirmed — See Constitution of India, Article 226

(Jun) 304B (FB)

—S. 54 — Rules under — Rule 34 (3) is a part of the Act — See Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 12

(Jul) 342G (FB)

—U. P. Consolidation of Holding Rules — See under Tenancy Laws — U. P. Consolidation of Holdings Act (5 of 1954), Section 54.

—U. P. Government Estates Thekedari Abolition Act (1958) (1 of 1959) — Act cannot be challenged on the ground that it does not profess to pay what may be called compensation at all, that the compensation for the determined leases was nothing but illusory and that the Act infringed Article 31-A — The Act is completely protected by Article 31-A from being affected by Articles 14, 19 or 31

(Jan) 43E

—S. 3 — Act applies not only to thekedaris but also cultivating lessees on Government Estate — Act intends to extend

Tenancy Laws — U. P. Government Estates Thekedari Abolition Act (contd.)

benefits of U. P. Zamindari Abolition and Land Reforms Act to cultivating lessees whose leases have been abolished — State cannot single out leases in any particular district, abolish them and not extend benefit of Reforms Act — State cannot use its discretion contrary to intention of Act — Notification abolishing leases without applying Reforms Act, is an act of bad faith, ineffective and must be quashed

(Jan) 43B

—S. 3 — Abolition of leases on Government Estate — Provisions are void under Art. 31-A, Second proviso, of the Constitution inasmuch as Act does not seek to provide compensation at market rate — Applicability of Government Grants Act (as amended in U. P.) — Section 3 of the Grants Act makes U. P. Imposition of Ceiling on Land Holdings Act applicable — Provisions are not severable — Thekedari Abolition Act became void with effect from 20th June 1964, when Second proviso to Article 31-A came into force — Notification under Act abolishing leases is also void

(Jan) 43D

—U. P. Imposition of Ceiling on Land Holdings Act (1 of 1961), Ss. 3 (c) (iv) and (v) and 4 — Tenure holder having three sons separate from him within the terms of Explanation to Section 3 (c) — Wives and daughters of those sons cannot be treated as members of the tenure-holder's family for determination of the ceiling area applicable to the tenure holder under Section 4

(Aug) 399

—S. 4 — Applicability — See Tenancy Laws — U. P. Thekedari Abolition Act 1958 (1 of 1959), Section 3

(Jan) 43D

—S. 4 — Wives and children of son separate from tenure-holder — Exclusion for determining ceiling area — See Tenancy Laws — U. P. Imposition of Ceiling on Land Holdings Act (1 of 1961), Section 3 (c) (iv) and (v)

(Aug) 399

—U. P. Zamindari Abolition and Land Reforms Act, 1950 (1 of 1951), S. 4 — Vesting of all estates in Uttar Pradesh in the State — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act, 1950 (1 of 1951), Section 18

(Nov) 526A (FB)

—S. 6 — Consequences of vesting of estate in State — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act, 1950 (1 of 1951), Section 18

(Nov) 526A (FB)

—Ss. 18, 4, 6, 152, 143, 331 — Joint Hindu family holding bhumidhari rights in holding — Members hold it as tenants in common — Notions of Hindu Law cannot be invoked — Each member is separate unit for purposes of devolution — 1965 All LJ 582 and Civil Misc. Writ No.

Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (contd.)

2286 of 1965 (All), Overruled

(Nov) 526A (FB)

—Ss. 20 (b), Explanation I thereto and 232 — Person recorded as occupant within meaning of Section 20 (b) — His eviction from land in execution of compromise decree passed under Section 180 of U. P. Act 17 of 1939, thereafter — He is entitled to regain possession under Section 232 (Apr) 170A

—S. 20 (b), Explanations I, II, III — Compromise decree for eviction of occupant under Section 180 of U. P. Act 17 of 1939 passed on 8-12-1948 — No mention in compromise or decree for correction of records — Entries in favour of occupant cannot be deemed to have been corrected — Explanation I excludes operation of Explanations II and III

(Apr) 170C

—S. 20 (b) (i) — Entries relating to occupant in khasra and khatauni of 1356 F at variance — Khatauni entry showing certain person as occupant while khasra entry showing him as sub-tenant — Entry in Khatauni is in sufficient compliance with Section 20 (b) (i)

(Apr) 170B

—S. 20 (b) — Phrase "recorded as occupant" in Section 20 (b) — Meaning of — A person whose name is recorded in column of sub-tenant is also an occupant within Section 20 (b) — AIR 1964 All 498 (FB), Held, impliedly overruled by AIR 1961 SC 143 and AIR 1965 SC 54 — Person entered as sub-tenant of part of holding — Effect of

(Jun) 304A (FB)

—S. 127-B — Panel Lawyer of Gaon Sabhas at Tehsil H. Q. — Holds an office of profit not within Article 191 of Constitution — See Constitution of India, Article 191 (Feb) 88C

—S. 143 — Except as provided under the Act Bhumidar not governed by his personal law — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act, 1950 (1 of 1951), Section 18

(Nov) 526A (FB)

—S. 152 — Joint Hindu Family holding Bhumidhari lands — Each member's right to transfer his interest in land is controlled by Sec. 152 — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act, 1950 (1 of 1951) S. 18

(Nov) 526A (FB)

—S. 175 — Joint Hindu family holding Bhumidari rights in holding — Members hold it as tenants in common — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act 1950 (1 of 1951), Section 18 (Nov) 526A (FB)

—S. 209 — Bar of jurisdiction of Civil Court — Tests indicated — See Civil P. C. (1908), Section 9 (Nov) 526C (FB)

—S. 232 — Eviction of person recorded as occupant within meaning of Sec. 20

Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (contd.)

(b), in execution of compromise decree under Section 180, U. P. Tenancy Act — He is entitled to regain possession under the section — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act 1950 (1 of 1951), Section 20 (b), Explanation I, thereto (Apr) 170A (FB)

—S. 240-D — Scope — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (1951), Chap. IX-A

(Jan) 26A (FB)

—S. 240-G (as introduced by Act 20 of 1954) — Word "person interested" means person interested in receiving compensation (Jan) 26B (FB)

—S. 240-J (as introduced by Act 20 of 1954) — Compensation statement sealed and signed under Section 240-J is not conclusive as regards status of a person as adhvasi — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (1 of 1951), Ch. IX-A (as introduced by Act 20 of 1954) (Jan) 26A (FB)

—S. 331 — Except as provided under the Act Bhumidar not governed by his personal law — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act, 1950 (1 of 1951), Section 18

(Nov) 526A (FB)

—S. 331 — Bar of jurisdiction of Civil Court — Tests indicated — See Civil P. C. (1908), Section 9 (Nov) 526C (FB)

—S. 332 — Revenue Court remitting issue to civil court for decision — Finding recorded by civil court is not decision but only finding that cannot operate as res judicata: C. M. Writ No. 3564 of 1958. D/- 20-4-1962, Reversed

(Aug) 407

—Ch. IX-A and Ss. 240-J and 240-D (as introduced by Act 20 of 1954) — Scope — Compensation statement sealed and signed under Section 240-J is not conclusive as regards status of a person as "Adhvasi" — Consolidation authorities competent to go into question

(Jan) 26A (FB)

—U. P. Zamindari Abolition and Land Reforms Rules, 1952, R. 114 — Panel lawyer of Gaon Sabhas at Tehsil H. Q. — Holds an office of profit within Article 191 of the Constitution — See Constitution of India, Article 191

(Feb) 88C

Transfer of Property Act (4 of 1882), S. 8 — Deed, construction — Real intention of parties must be judged from contents of document as a whole and not from use of any specific word or phrase therein (Dec) 571A

—S. 9 — Sale of evacuee property worth less than Rs. 100-00P by custodian — Sale can be oral by delivery of posses-

T. P. Act (contd.)

sion — See Administration of Evacuee Property Act (1950), Section 10 (2) (o)

(Nov) 554

—S. 54 — Sale of evacuee property by custodian — Section 54 applies — See Administration of Evacuee Property Act (1950), Section 10 (2) (o) (Nov) 554

—S. 60 — Suit for redemption of mortgage in erstwhile Tehri Garhwal State — Limitation — Starting and expiry of — See Limitation Act (1908), Article 148

(Jan) 31

—S. 105 — No interest in property passed to occupier — Occupier is licensee and not lessee — Fact that ground rent was being charged would not make him lessee (May) 248K

—Ss. 105 and 106 — Interest of a tenant from year to year as well as a tenant from month to month is heritable (Jul) 333C (FB)

—S. 105 — Co-tenancy and joint tenancy — Incidence of (Nov) 526B (FB)

—Ss. 106 and 116 — Tenant remaining in possession of premises after expiry of stipulated period — Presumption under Section 106 and principle of holding over (Jul) 333A (FB)

—S. 106 — Contract of tenancy — Formal notice for a definite period required to be served in case of termination by either party — Tenancy is not tenancy at will — AIR 1950 All 583, Overruled (Jul) 333B (FB)

—S. 106 — Interest of tenant from year to year and from month to month is heritable — See Transfer of Property Act (1882), Section 105 (Jul) 333C (FB)

—S. 116 — Principles of holding over — See Transfer of Property Act (1882), Section 106 (Jul) 333A (FB)

—S. 122 — Gift to idol, an impersonal deity — Gift to Radha Swami Satsangis — Dedication held valid (May) 248M

—S. 122 — Gift by Sant Sat Guru to Radha Swami Dayal, the supreme deity — Sant Sat Guru, according to tenets of Dayal Bagh sect not regarded as representative of supreme being on earth — Gift to be utilised for benefit of Dayal Bagh group of Satsangis — Registered Society formed for same purpose — Gift to vest in Sabha — Gift is not by Sant Sat Guru to himself and is valid — The gift vested in Sabha for the benefit of Satsangis (May) 248N

Trusts Act (2 of 1882), S. 1 — Cy press Doctrine of — Applicability to wakf — See Mussalman Wakf Validating Act (1913), Section 3 (Jan) 35C

U. P. Consolidation of Holdings Act (5 of 1954)

See under Tenancy Laws.

U. P. Encumbered Estates Act (25 of 1934)

See under Debt Laws.

U. P. Foodgrains Dealers Licensing Order (1964), Cl. 2 (a) — Presumption under Clause 3 (2) — See Essential Commodities Act (1955), Section 3 (Mar) 123A

—Cl. 3 (2) — Presumption under — Wheat found in possession of a person in excess of ten quintals — Person engaged in business of selling and purchasing goods — Presumption would be that it was stored for purpose of sale — See Essential Commodities Act (1955), S. 3

(Mar) 123A

U. P. Foodgrains (Restrictions on Hoarding) (Amendment) Order (1967) — Order would be deemed to be part of enactment itself — See Constitution of India, Article 302 (Nov) 560C

—Order, held, was outside authority delegated by Central Government — See Essential Commodities Act (1955), S. 5

(Nov) 560D

—Para 3 — Order providing limits of stock to be held by a grain dealer — Such provision is not regulatory but prohibitory — See Essential Commodities Act (1955), Section 3 (1) (Nov) 560A

U. P. General Clauses Act (1 of 1904), S. 3 (32) — Honorary Magistrate — Not disqualified for being elected Adhyaksha of Z. P. under U. P. Act 33 of 1961 — See Panchayats — U. P. Kshettra Samitis and Zila Parishads Adhiniyam (U. P. Act 33 of 1961), Section 13 (c)

(Feb) 65B

—S. 13 (2) — Word "Judge" occurring in Court-fees Act (1870), Section 5 includes "Judges" — See Court-fees and Suits Valuations — Court-fees Act (1870), Section 5 (Oct) 484B (FB)

—S. 14 — Passing successive orders under Section 12 (6) of U. P. Act (28 of 1956) is permissible — See Education — U. P. Varanaseya Sanskrit Vishwa Vidyalaya Act (28 of 1956), S. 12

(Aug) 378 (FB)

U. P. Government Estates Thekedari Abolition Act (1958) (1 of 1959)

See under Tenancy Laws.

U. P. Higher Judicial Service Rules (1953)

See under Civil Services.

U. P. Home Guards Adhiniyam (29 of 1963) — Appointment of person as Adjutant prior to Act — Person holds an office of profit within Art. 191 of the Constitution — See Constitution of India, Article 191 (Feb) 88B

—S. 15 — Appointment made under executive orders in force prior to enforcement of Adhiniyam — Not appointment under Adhiniyam — See General Clauses Act (1897), Section 24 (Feb) 88A

U. P. Imposition of Ceiling on Land Holdings Act (1 of 1961)

See under Tenancy Laws.

U. P. Industrial Disputes Act (28 of 1947), S. 6 (1) (3) — When individual dispute

U. P. Industrial Disputes Act (contd.)

becomes Industrial Dispute — Dispute must be sponsored by a union of workers of the company concerned or by a union of workers employed in similar or allied trade — Dispute as to claim for bonus in a company manufacturing electrical goods sponsored by union of workers of metal industry — Workers of metal industry cannot be said to be employed in similar or allied trade as the company manufacturing electrical goods is engaged — Reference by State Government is not competent (May) 242

Uttar Pradesh Industrial Housing Act (23 of 1955)

See under Houses and Rents.

U. P. Kshettra Samitis and Zilla Parishads Adhiniyam (U. P. Act 33 of 1961)

See under Panchayats.

U. P. Motor Vehicles Rules (1940), R. 44A

— Power of Regional Transport Authority under Section 44 (5) of the Act — Delegation of to Secretary Member — Validity — W. P. No. 296 of 1963, D/- 7-8-1964 (All), Overruled — See Motor Vehicles Act (1939), Section 44 (5) (Jul) 365A (FB)

— R. 72 — Interpretation of — Rule is mandatory and not directory — Failure to implead persons to be affected, on date of appeal — Effect — Civil P. C. (1908), Pre. — Interpretation of Statutes — Motor Vehicles Act (1939), Section 64 (Mar) 119A

(U. P.) Public Moneys (Recovery of Dues) Act (25 of 1965), S. 3 (1) (a) and (b) — Validity of — See Constitution of India, Article 14 (Sep) 419B

— S. 3 (1) (c) — Clause C not discriminatory — Procedure provided thereunder when available — See Constitution of India, Article 14 (Sep) 419A

U. P. (Temporary) Control of Rent and Eviction Act (3 of 1947)

See under Houses and Rents.

U. P. Municipalities Act (2 of 1916)

See under Municipalities.

U. P. Nagar Mahapalika Adhiniyam (2 of 1959)

See under Municipalities.

U. P. Sales Tax Act (15 of 1948)

See under Sales Tax.

U. P. Sales Tax Rules (1948)

See under Sales Tax.

U. P. State Road Transport Services (Development) Rules (1958), R. 10 — Power of Regional Transport Authority under Section 44 (5) of the Act — Delegation of to Secretary Member — Validity W. P. No. 296 of 1963, D/- 7-8-1964 (All), Overruled — See Motor Vehicles Act (1939), Section 44 (5) (Jul) 365A (FB)

U. P. Town Areas Act (2 of 1914)

See under Municipalities.

U. P. Varanasya Sanskrit Vishwa Vidyalaya Act (28 of 1956)

See under Education.

U. P. Vrithi, Vyapar, Ajivika Aur Sevayojan Kar Adhiniyam (21 of 1965), Pre. — Act is within legislative competence of U. P. Legislature — See Constitution of India, Article 246 (Jun) 317A (FB).

— Preamble — Act is not discriminatory and not hit by Article 14 — See Constitution of India, Article 14 (Jun) 317C (FB).

— Preamble — Act is not confiscatory in nature — See Constitution of India, Article 265 (Jun) 317D (FB).

— Preamble — Act cannot be said to be hit by Article 19 (1) (f) and (g) as also by Article 31 as these articles have no application here because Act is passed after the enforcement of the emergency — See Constitution of India, Article 19 (Jun) 317E (FB).

— Preamble — Act cannot be said to be conflicting with Income Tax Act — See Constitution of India, Article 254 (Jun) 317F (FB).

— S. 2 (6) (12) — Validity — See Constitution of India, Article 246 (Jun) 317A (FB).

— S. 3 — Scope — Validity — See Constitution of India, Article 246 (Jun) 317A (FB).

— S. 3 — Validity — See Constitution of India, Article 14 (Jun) 317C (FB).

— S. 3 — Validity — See Constitution of India, Article 265 (Jun) 317D (FB).

— S. 3 — Tax under the Act not a tax on income — Act cannot be said to be conflicting with Income Tax Act — See Constitution of India, Article 254 (Jun) 317F (FB).

— S. 4 — Scope — Validity — See Constitution of India, Art. 246 (Jun) 317A (FB).

— S. 5 — Scope — Validity — See Constitution of India, Art. 246 (Jun) 317A (FB).

U. P. Zamindari Abolition and Land Reforms Act (1 of 1951)

See under Tenancy Laws.

U. P. Zamindari Abolition and Land Reforms Rules 1952

See under Tenancy Laws.

U. P. Zilla Parishads (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules (1961).

See under Tenancy Laws.

Words and Phrases — Word "determination" — Connotation — Determination means final determination — Mere opinion or finding not determination — See Tenancy Laws — U. P. Consolidation of Holdings Act (1954), S. 12 (4)

(Aug) 407

—"Entertained" — Word "entertained" in first proviso to S. 9 (1), U. P. Sales Tax Act means the first occasion on which court takes up matter for consideration — See Sales Tax — U. P. Sales Tax Act (15 of 1948), S. 9 (1)

(Apr) 200A (FB)

—"Eviction" — Word is generally used in sense of compulsive dispossession — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (1 of 1951) S. 20 (b) explanation I there-to

(Apr) 170A (FB)

—"Has been" — Meaning — "Has been" when not followed by a participle is the present perfect tense of "to be" and indicates that the state of being existed and may be (but not necessarily is) continuing

(May) 230B

—"Khandsari" — Meaning of — See Employees' Provident Funds Act (1952), S. 19A

(Sep) 432B

—"Manufacturing process" — Packing grass into bales for being sent as raw material to paper factory — Not manufacturing process. 1962-1 Lab LJ 697 (All), Reversed — See Factories Act (1948), S. 2 (k) (i) and (m)

(Nov) 547

—"May" — See Houses & Rents — U. P. Industrial Housing Act (U. P. Act

Words and Phrases (contd.)

No. 23 of 1955) S. 21 (1)

(Jun) 278B (FB)

—"Packing" — Meaning of — See Factories Act (1948), S. 2 (k) (i) and (m)

(Nov) 547

—"Persona designata" — Meaning of — See Court-fees and Suits Valuations — Court Fees Act (1870), S. 5

(Oct) 484A (FB)

—"Professional misconduct" — It involves moral turpitude — See Notaries Act (1952), S. 10 (d)

(Jul) 363

—"Recorded as occupant" — Meaning of — See Tenancy Laws — U. P. Zamindari Abolition and Land Reforms Act (1 of 1951) S. 20 (b)

(Jun) 304A (FB)

—"Service" — Expression "the service" in Art. 232 (2) can only mean "judicial service" as defined in Art. 236 (b) of Constitution — See Constitution of India, Art. 233 (2)

(Dec) 594A (FB)

—"Special Duty" — Meaning of — See Constitution of India, Art. 191

(Feb) 88B

—"Transaction" — Meaning of — See Criminal P. C. (1898), S. 234 (1)

(Oct) 489A

—"Voluntary" — Word "voluntarily" means that the person obtaining passport acted of his own volition and knew the nature of his act, and did not act in performance of a legal duty, nor due to coercion, or fraud, or misrepresentation, or mistake — See Citizenship Rules (1956), R. 30

(May) 223B

CORRECTION SLIP

AIR 1969 All 278 (V 56 C 54) (June)(FB), at page 280, col. 2 line 14, Add word "not" between words "need" and "be".

ALLAHABAD SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM, ETC., IN A. I. R. 1969

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
REVERS.=Reversed in

Arbitration Act (10 of 1940)

- S. 8 — AIR 1965 All 269 — Reversed. AIR 1969 SC 474 (Jun).
- S. 20 — AIR 1965 All 269 — Reversed. AIR 1969 SC 474 (Jun).

Arms Act (54 of 1959)

- S. 17 (3) — AIR 1966 All 265 — Diss. AIR 1969 Assam 50A (FB) (May).

Citizenship Act (57 of 1955)

- S. 9 — AIR 1963 All 260 — Over. AIR 1969 SC 1234A (Dec).
- S. 9 — ('63) S. A. No. 3809 of 1958, D/- 11-12-1963 (All) — Reversed. AIR 1969 SC 1234A (Dec).

Citizenship Rules (1956)

- R. 30 — AIR 1963 All 260 — Over. AIR 1969 SC 1234A (Dec).
- R. 30 — S. A. No. 3809 of 1958, D/- 11-12-1963 (All) — Revers. AIR 1969 SC 1234A (Dec).

Civil Procedure Code (5 of 1908)

- S. 9 — 1965 All LJ 1137 — Over. AIR 1969 All 526C (FB) (Nov).
- S. 11 — (1910) 7 All LJ 861 (FB) — Over. AIR 1969 All 504B, C (FB) (Oct).
- S. 11 — (1910) 7 All LJ 995 — Over. AIR 1969 All 504B, C (FB) (Oct).
- S. 11 — AIR 1914 All 173 — Disapproved. AIR 1969 SC 316A (Apr).
- S. 11 — AIR 1941 All 277 — Over. AIR 1969 All 504B, C (FB) (Oct).
- S. 11 — AIR 1946 Oudh 33 (FB) — Held no longer good law in view of AIR 1966 SC 1332 as interpreted in AIR 1969 All 504C (FB) (Oct).
- S. 11 — AIR 1965 All 280 — Over. AIR 1969 All 504B (FB) (Oct).
- S. 20 — 1965 All LJ 1137 — Over. AIR 1969 All 526C (FB) (Nov).
- S. 36 — AIR 1941 All 140 — Diss. AIR 1969 Guj 28 (Jan).
- S. 47 — AIR 1914 All 173 — Disapproved. AIR 1969 SC 316A (Apr).
- S. 47 — AIR 1932 All 439 — Diss. AIR 1969 Cal 406A (Aug).
- S. 47 — AIR 1961 All 1 (FB) — Diss. AIR 1969 Orissa 32 (Feb).
- S. 47 — ILR (1965) 2 All 383 — Revers. AIR 1969 SC 1270 (Dec).
- S. 60 (1) (c) — AIR 1924 All 328 — Diss. AIR 1969 Andh Pra 355B (Oct).
- S. 80 — (62) F. A. No. 205 of 1950, D/- 24-4-1962 (All) — Revers. AIR 1969 SC 674B (Aug).
- S. 94 — AIR 1941 All 140 — Diss. AIR 1969 Guj 28 (Jan).
- S. 107 — (64) S. As. Nos. 4940 and 3660 of 1961, D/- 27-4-1964 (All). — Revers. AIR 1969 SC 1316B (Dec).
- S. 115 — AIR 1934 All 541 — Not F. AIR 1969 Mad 191G (May).
- S. 144 — AIR 1954 All 119 — Diss. AIR 1969 Ker 31 (Jan).

Civil P. C. (contd.)

- S. 153 — AIR 1965 All 586 — Revers. AIR 1969 SC 1267A (Dec).
- O. 1. R. 10 — AIR 1914 All 173 — Disapproved. AIR 1969 SC 316A (Apr).
- O. 6, R. 17 — AIR 1965 All 586 — Revers. AIR 1969 SC 1267A (Dec).
- O. 6, R. 153 — AIR 1965 All 586 — Revers. AIR 1969 SC 1267A (Dec).
- O. 21, R. 2 — AIR 1961 All 1 (FB) — Diss. AIR 1969 Orissa 32 (Feb).
- O. 21, R. 32 — AIR 1941 All 140 — Diss. AIR 1969 Guj 28 (Jan).
- O. 21, R. 35 — AIR 1914 All 173 — Disapproved. AIR 1969 SC 316A (Apr).
- O. 21, R. 94 — AIR 1938 All 471 — Diss. AIR 1969 Mys 73A (Mar).
- O. 22, R. 3 — AIR 1914 All 173 — Disapproved. AIR 1969 SC 316A (Apr).
- O. 23, R. 1 (2), (a), (b) — AIR 1957 All 845 (FB) — Diss. AIR 1969 Mys 141 (Apr).
- O. 30, R. 1 — AIR 1965 All 586 — Revers. AIR 1969 SC 1267A (Dec).
- O. 34, R. 14 — AIR 1932 All 439 — Diss. AIR 1969 Cal 406A (Aug).
- O. 34, R. 15 — AIR 1932 All 439 — Diss. AIR 1969 Cal 406A (Aug).
- O. 39, R. 1 — AIR 1941 All 140 — Diss. AIR 1969 Guj 28 (Jan).
- O. 39, R. 2 (3) — AIR 1941 All 140 — Diss. AIR 1969 Guj 28 (Jan).
- O. 41, R. 33 — (64) S. As. Nos. 4940 and 3660 of 1961, D/- 27-4-1964 (All) — Revers. AIR 1969 SC 1316B (Dec).
- O. 42, R. 1 — (64) S. As. Nos. 4940 and 3660 of 1969, D/- 27-4-1964 (All) — Revers. AIR 1969 All 594C (FB) (Dec.)

Constitution of India

- Arts. 31A and 31B — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).
- Art. 141 — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).
- Art. 142 — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).
- Art. 144 — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).
- Art. 226 — ('62) Civil Misc. Writ No. 1870 of 1961, D/- 5-10-1962 (All) — Over. AIR 1969 All 269B (Jun).
- Art. 226 — ('66) W. P. No. 1827 of 1963, D/- 3-3-1966 (All) — Revers. AIR 1969 All 14A (Jan).
- Art. 226 — ('67) S. A. No. 322 of 1964, D/- 27-3-1967 (All) — Revers. AIR 1969 SC 556 (Jul).
- Art. 226 — ('67) Civil Misc. Writ No. 70 of 1967, D/- 10-3-1967 (All) — Over. AIR 1969 All 269B (Jun).
- Art. 233 — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).
- Art. 233A — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).

Constitution of India (contd.)

- Art. 245 — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).
- Art. 246 — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).
- Art. 309, Proviso — Observations of Dwivedi, J. in AIR 1962 All 328 — Diss. AIR 1969 Andh Pra 109 (Mar).
- Art. 309 — AIR 1965 All 406 — Revers. AIR 1969 All 449 (FB) (Sep).
- Art. 310 — AIR 1965 All 406 — Revers. AIR 1969 All 449 (FB) (Sep).
- Art. 311 (2) — AIR 1965 All 406 — Revers. AIR 1969 All 449 (FB) (Sep).
- Art. 311 (2) — (65) S. A. No. 1271 of 1962, D/- 2-3-1965 (All) — Revers. AIR 1969 SC 1020A (Nov).
- Art. 368, Proviso — AIR 1969 All 230 — Revers. AIR 1969 All 594C (FB) (Dec).
- Sch. 7, List I, Item 82 — 1955 All LJ 630 — Over. AIR 1969 All 14A (FB) (Jan).
- Sch. 7, List I, Item 82 — AIR 1957 All 433 — Over. AIR 1969 All 40A (FB) (Jan).
- Sch. 7, List I, Item 82 — 1961 All LJ 743 — Over. AIR 1969 All 40A (FB) (Jan).

Contempt of Courts Act (32 of 1952)

- S. 1 — (65) Cri. Misc. Contempt Case No. 7 of 1965, D/- 3-8-1965 (All) — Revers. AIR 1969 SC 30 (Jan).

Contract Act (9 of 1872)

- S. 73 — AIR 1938 All 276 — Diss. AIR 1969 Bom 373C (Nov).
- S. 73 — AIR 1943 Oudh 17 — Diss. AIR 1969 Bom 373C (Nov).
- S. 202 — AIR 1964 All 441 — Revers. AIR 1969 SC 73 (Jan).

COURT-FEES AND SUITS VALUATIONS

- Court-fees Act (7 of 1879)
- S. 5 — (1911) ILR 33 All 20 — Over. AIR 1969 All 484B (FB) (Oct).
- S. 5 — AIR 1951 All 499 — Over. AIR 1969 All 484B (FB) (Oct).

Criminal Procedure Code (5 of 1898)

- S. 4 (1) (4) — AIR 1967 All 468 — Held no longer good law in view of AIR 1964 SC 1541 as interpreted in AIR 1969 Ker 97 (Apr).
- S. 145 — AIR 1963 All 256 — Diss. AIR 1969 Manipur 3 (Jan).
- S. 146, sub-sections (1B) and (1D) — AIR 1960 All 599 — Diss. AIR 1969 Assam 81A (Jul).
- S. 156 (3) — AIR 1967 All 468 — Held no longer good law in view of AIR 1964 SC 1541 as interpreted in AIR 1969 Ker 97 (Apr).
- S. 190 — AIR 1952 All 873 — Diss. AIR 1969 Ker 111E (Apr).
- S. 190 — AIR 1967 All 468 — Held no longer good law in view of AIR 1964 SC 1541 as interpreted in AIR 1969 Ker 97 (Apr).

Criminal P. C. (contd.)

- S. 195 (1) (a) (b) — AIR 1968 All 765 — Over. AIR 1969 SC 355A (May).
- S. 367 (5) (as amended by Act 26 of 1955) — AIR 1960 All 748 — Diss. AIR 1969 Bom 294A (FB) (Sep).
- S. 405 — AIR 1926 All 403 — Diss. AIR 1969 All 557 (Nov).
- S. 405 — 1956 All LJ 649 — Diss. AIR 1969 All 557 (Nov).
- S. 405 — 1957 All LJ 648 — Diss. AIR 1969 All 557 (Nov).
- S. 406 — AIR 1926 All 403 — Diss. AIR 1969 All 557 (Nov).
- S. 406 — 1956 All LJ 649 — Diss. AIR 1969 All 557 (Nov).
- S. 406 — 1957 All LJ 648 — Diss. AIR 1969 All 557 (Nov).
- S. 406A — AIR 1926 All 403 — Diss. AIR 1969 All 557 (Nov).
- S. 406A — 1956 All LJ 649 — Diss. AIR 1969 All 557 (Nov).
- S. 406A — 1957 All LJ 648 — Diss. AIR 1969 All 557 (Nov).
- S. 423 — AIR 1926 All 403 — Diss. AIR 1969 All 557 (Nov).
- S. 423 — 1956 All LJ 649 — Diss. AIR 1969 All 557 (Nov).
- S. 423 — 1957 All LJ 648 — Diss. AIR 1969 All 557 (Nov).
- S. 435 — AIR 1960 All 599 — Diss. AIR 1969 Assam 81A (Jul).
- S. 436 — AIR 1941 Oudh 409 — Diss. AIR 1969 Cal 161C (Apr).
- S. 437 — AIR 1941 Oudh 409 — Diss. AIR 1969 Cal 161C (Apr).
- S. 439 — AIR 1960 All 599 — Diss. AIR 1969 Assam 81A (Jul).
- S. 486 — AIR 1926 All 403 — Diss. AIR 1969 All 557 (Nov).
- S. 486 — 1956 All LJ 649 — Diss. AIR 1969 All 557 (Nov).
- S. 486 — 1957 All LJ 648 — Diss. AIR 1969 All 557 (Nov).
- S. 510A — AIR 1963 All 256 — Diss. AIR 1969 Manipur 3 (Jan).
- S. 514 — AIR 1926 All 403 — Diss. AIR 1969 All 557 (Nov).
- S. 514 — 1956 All LJ 649 — Diss. AIR 1969 All 557 (Nov).
- S. 514 — 1957 All LJ 648 — Diss. AIR 1969 All 557 (Nov).
- S. 515 — AIR 1926 All 403 — Diss. AIR 1969 All 557 (Nov).
- S. 515 — 1956 All LJ 649 — Diss. AIR 1969 All 557 (Nov).
- S. 515 — 1957 All LJ 648 — Diss. AIR 1969 All 557 (Nov).
- S. 539 — AIR 1963 All 256 — Diss. AIR 1969 Manipur 3 (Jan).
- Ss. 539A, 539AA — AIR 1963 All 256 — Diss. AIR 1969 Manipur 3 (Jan).
- S. 561A — AIR 1926 All 403 — Diss. AIR 1969 All 557 (Nov).
- S. 561A — 1956 All LJ 649 — Diss. AIR 1969 All 557 (Nov).
- S. 561A — 1957 All LJ 648 — Diss. AIR 1969 All 557 (Nov).

DEBT LAWS

—U. P. Encumbered Estates Act (25 of 1934)

—S. 19 (2) — AIR 1947 All 188 — Over. AIR 1969 All 220 (FB) (May).

—S. 47 — AIR 1947 All 188 — Over. AIR 1969 All 220 (FB) (May).

Drugs and Cosmetics Act (23 of 1940)

—S. 23 — AIR 1960 All 460 — Diss. AIR 1969 Andh Pra 99C (Mar).

—S. 25 — AIR 1960 All 460 — Diss. AIR 1969 Andh Pra 99C (Mar).

Easements Act (5 of 1882)

—S. 2 (b) — AIR 1929 All 676 — Diss. AIR 1969 Raj 31B (Feb).

—S. 2 (r) — AIR 1963 All 340 — Diss. AIR 1969 Raj 31B (Feb).

—S. 18, III. (b) — AIR 1929 All 676 — Diss. AIR 1969 Raj 31B (Feb).

—S. 18, III. (b) — AIR 1963 All 340 — Diss. AIR 1969 Raj 31B (Feb).

Evidence Act (1 of 1872)

—S. 3 — AIR 1952 All 506 — Diss. AIR 1969 Punj 244A (Jul).

—S. 35 — (1896) ILR 18 All 478 — Not F. AIR 1969 All 162B (Apr).

Factories Act (LXIII of 1948)

—S. 2 (k), (i) and (m) — (1962) 1 Lab LJ 697 (All) — Revers. AIR 1969 All 547 (Nov).

Hindu Adoptions and Maintenance Act (78 of 1956)

—S. 4 — AIR 1967 All 148 — Diss. AIR 1969 Mad 72E (Mar).

—S. 5 — AIR 1967 All 148 — Diss. AIR 1969 Mad 72E (Mar).

—S. 7 — AIR 1967 All 148 — Diss. AIR 1969 Mad 72E (Mar).

—S. 8 — AIR 1967 All 148 — Diss. AIR 1969 Mad 72E (Mar).

—S. 11 — AIR 1967 All 148 — Diss. AIR 1969 Mad 72E (Mar).

—S. 12 — AIR 1967 All 148 — Diss. AIR 1969 Mad 72E (Mar).

—S. 14 — AIR 1967 All 148 — Diss. AIR 1969 Mad 72E (Mar).

Hindu Marriage Act (25 of 1955)

—S. 24 — F. A. F. O. No. 244 of 1959, D/- 19-5-1960 (All) — Over. AIR 1969 All 601 (Dec).

—S. 28 — F. A. F. O. No. 244 of 1959, D/- 19-5-1960 (All) — Over. AIR 1969 All 601 (Dec).

HOUSES AND RENTS

—U. P. (Temporary) Control of Rent and Eviction Act (3 of 1947)

—S. 3 — AIR 1964 All 7 (FB) — Held impliedly overruled by AIR 1965 SC 1767 as interpreted in AIR 1969 All 474 (FB) (Oct).

Income Tax Act (11 of 1922)

—S. 2 (6A) — AIR 1964 All 457 — Revers. AIR 1969 SC 840 (Oct).

—S. 4 — AIR 1964 All 457 — Revers. AIR 1969 SC 840A (Oct).

—S. 6 — AIR 1965 All 94 — Revers. AIR 1969 SC 209 (Mar).

—S. 10 — AIR 1965 All 94 — Revers. AIR 1969 SC 209 (Mar).

—S. 10 (1) — AIR 1964 All 457 — Revers. AIR 1969 SC 840A (Oct).

—S. 10 (2) (10) (15) — (1963) 48 ITR 346 (All) — Revers. AIR 1969 SC 609 (Aug).

—S. 23A (4) — ILR (1963) 2 All 325 — Revers. AIR 1969 SC 501 (Jun).

—S. 24 (1) 1st Proviso Expl. (1) — AIR 1965 All 94 — Revers. AIR 1969 SC 209 (Mar).

—S. 29 — AIR 1961 All 133 — Over. AIR 1969 SC 667A (Aug).

—S. 34 — (1968) 1 ITJ 662 (All) — Revers. AIR 1969 SC 944 (Nov).

—S. 46 (2) — AIR 1961 All 133 — Over. AIR 1969 SC 667A (Aug).

Industrial Disputes Act (14 of 1947)

—S. 15 — ('84) ILR 6 All 173 — Held no longer good law in view of AIR 1950 SC 188 in AIR 1969 Pat 53D (Feb).

—S. 15 — ('84) ILR 6 All 634 — Held no longer good law in view of AIR 1950 SC 188 in AIR 1969 Pat 53D (Feb).

—S. 33-C (2) — 1952-1 Lab LJ 524 (LATI at All) — Diss. AIR 1969 Mad 374B (Oct).

—Sch. III, Item 5 — ('84) ILR 6 All 173 — Held no longer good law in view of AIR 1950 SC 188 in AIR 1969 Pat 53D (Feb).

—Sch. III, Item 5 — ('84) ILR 6 All 634 — Held no longer good law in view of AIR 1950 SC 188 in AIR 1969 Pat 53D (Feb).

Land Acquisition Act (1 of 1894)

—S. 18 — AIR 1929 All 769 — Diss. AIR 1969 Pat 131 (Apr).

—S. 18 — AIR 1963 All 556 (FB) — Diss. AIR 1969 Pat 131 (Apr).

Limitation Act (9 of 1908)

—S. 20 — AIR 1939 All 230 — Diss. AIR 1969 Cal 390B (Aug).

—Art. 181 — AIR 1957 All 206 — Over. AIR 1969 All 518 (FB) (Nov).

—Art. 183 — AIR 1939 All 230 — Diss. AIR 1969 Cal 390B (Aug).

Limitation Act (36 of 1963)

—S. 19 — AIR 1935 All 129 — Held Overruled by AIR 1953 SC 225 As Interpreted in AIR 1969 Raj 192A (FB) (Jul).

Lunacy Act (4 of 1912)

—S. 62 — AIR 1920 All 80 — Diss. AIR 1969 Pat 33B (Feb).

Motor Vehicles Act (4 of 1939),

- S. 44 (5) — W. P. No. 296 of 1963, D/- 7-8-1964 (All) — Over. AIR 1969 All 365A (FB) (Jul).
- S. 47 (3) — (66) W. P. No. 1827 of 1963, D/- 3-3-1966 (All) — Revers. AIR 1969 All 14B (Jan).
- S. 48 — (66) W. P. No. 1827 of 1963, D/- 3-3-1966 (All) — Revers. AIR 1969 All 14B (Jan).
- S. 65 — W. P. No. 296 of 1963, D/- 7-8-1964 (All) — Over. AIR 1969 All 365A (FB) (Jul).
- S. 68-G — W. P. No. 296 of 1963, D/- 7-8-1964 (All) — Over. AIR 1969 All 365A (FB) (Jul).

Mussalman Wakf Validating Act (6 of 1913)

- S. 3 — AIR 1927 All 255 — Diss. AIR 1969 Mys 103D (Mar).

Partnership Act (9 of 1932)

- S. 4 — AIR 1944 Oudh 37 — Diss. AIR 1969 Guj 178C (Jun).
- S. 4 — AIR 1952 All 695 — Diss. AIR 1969 Guj 178C (Jun).
- S. 63 — AIR 1944 Oudh 37 — Diss. AIR 1969 Guj 178C (Jun).
- S. 63 — AIR 1952 All 695 — Diss. AIR 1969 Guj 178C (Jun).
- S. 69 (2) — AIR 1944 Oudh 37 — Diss. AIR 1969 Guj 178C (Jun).
- S. 69 (2) — AIR 1952 All 695 — Diss. AIR 1969 Guj 178C (Jun).

Prevention of Food Adulteration Act (37 of 1954)

- S. 5 — AIR 1964 All 199 — Diss. AIR 1969 Ker 179 (Jun).
- S. 7 — AIR 1964 All 199 — Diss. AIR 1969 Ker 179 (Jun).
- S. 16 (1) (a) (i) — AIR 1964 All 199 — Diss. AIR 1969 Ker 179 (Jun).

Railways Act (9 of 1890)

- S. 74E — AIR 1920 Oudh 70 — Over. AIR 1969 SC 817B (Oct).
- S. 80 — AIR 1920 Oudh 70 — Over. AIR 1969 SC 817B (Oct).

Registration Act (16 of 1908)

- S. 17 — AIR 1928 All 726 (FB) — Held no Longer good Law in view of T. P. (Amendment) Supplementary Act 1929 — AIR 1969 SC 1316A (Dec).
- S. 49 — AIR 1928 All 726 (FB) — Held no Longer good Law in view of T. P. (Amendment) Supplementary Act (21 of 1929) — AIR 1969 SC 1316A (Dec).

Representation of the People Act (43 of 1951)

- S. 87 — AIR 1964 All 181 — Diss. AIR 1969 Raj 75B (Mar).

SALES TAX**—Punjab General Sales Tax Act (46 of 1948)**

- S. 2 (d) — (1963) 14 STC 551 (All) — Diss. AIR 1969 Punj 181B (Jun).

Sales Tax — Punjab General Sales Tax Act (contd.)

- S. 4 (5) (b) — (1963) 14 STC 551 (All) — Diss. AIR 1969 Punj 181B (Jun).
- S. 11 (6) — (1963) 14 STC 551 (All) — Diss. AIR 1969 Punj 181B (Jun).
- U. P. Sales Tax Act (15 of 1945)
- S. 9 (1), First Proviso — (1963) 14 STC 518 (All) — Over. AIR 1969 All 200A (FB) (Apr).

STAMP DUTY**—Stamp Act (2 of 1898)**

- S. 35 — AIR 1952 All 996 — Over. AIR 1969 SC 123SA (Dec).
- S. 36 — AIR 1952 All 996 — Over. AIR 1969 SC 123SA (Dec).

TENANCY LAWS**—Oudh Estates Act (1 of 1869)**

- S. 22 (7) — ILR (1964) 2 All 191 — Revers. AIR 1969 SC 135B (Feb).

—U. P. Consolidation of Holdings Act (5 of 1954)

- S. 11 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (Jul).
- S. 12 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (Jul).
- S. 19 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (FB) (Jul).
- S. 20 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (FB) (Jul).
- S. 21 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (FB) (Jul).
- S. 22 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (FB) (Jul).
- S. 23 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (FB) (Jul).
- S. 38 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (FB) (Jul).
- S. 48 — 1965 RD 12= 1964 All WR (HC) 589 — Over. AIR 1969 All 342A (FB) (Jul).

—U. P. Zamindari Abolition and Land Reforms Act 1950 (1 of 1951)

- S. 18 — 1965 All LJ 552 — Over. AIR 1969 All 626A (FB) (Nov).
- S. 18 — (65) Civil Misc. Writ No. 2286 of 1965 (All) — Over. AIR 1969 All 526A (FB) (Nov).
- S. 20 (b) — AIR 1964 All 49S (FB) — Held impliedly overruled by AIR 1961 SC 143 as interpreted in AIR 1969 All 304A (FB) (Jun).
- S. 332 — (62) C. M. Writ No. 3564 of 1955, D/- 20-4-1962 (All) — Revers. AIR 1969 All 407 (Aug).

Transfer of Property Act (4 of 1882)
 —S. 52 — AIR 1943 Oudh 354 (FB) —
 Diss. AIR 1969 Orissa 114B (May).
 —S. 100 — AIR 1932 All 439 — Diss.
 AIR 1969 Cal 406A (Aug).
 —S. 100 — AIR 1943 Oudh 354 (FB) —
 Diss. AIR 1969 Orissa 114B (May).

Transfer of Property Act (contd.)
 —S. 106 — AIR 1950 All 583 — Over.
 AIR 1969 All 333B (FB) (Jul).
 —S. 111 (g) — (13) ILR 35 All 145 —
 Not. F. AIR 1968 Madh Pra 32D (Feb).
 —S. 111 (g) — AIR 1953 All 797 — Not
 F. AIR 1969 Madh Pra 32D (Feb).

ALLAHABAD CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
 REVERS.=Reversed in

- (84) ILR 6 All 173 = 1884 All WN 16,
 Bawan Das v. Mul Chand. Held no
 longer good law in view of AIR 1950
 SC 188 in AIR 1969 Pat 53D (Feb).
- (84) ILR 6 All 634 = 1884 All WN 210,
 Janki Das v. East Indian Rly. Co. Held
 no longer good law in view of AIR
 1950 SC 188 in AIR 1969 Pat 53D
 (Feb).
- (1896) ILR 18 All 478 = 1898 All WN 158
 Gunjra Kuer v. Ablakh Pande — Not
 F. AIR 1969 All 162B (Apr).
- (1910) 7 All LJ 861 = 7 Ind Cas 156 (FB),
 Zaharia v. Debia — Over. AIR 1969
 All 504B, C (FB) (Oct).
- (1910) 7 All LJ 995 = 7 Ind Cas 909,
 Dakhni Din v. Ali Ashgar — Over.
 AIR 1969 All 504B, C (FB) (Oct).
- (1911) ILR 33 All 20 = 7 Ind Cas 315,
 Kachera v. Kharag Singh — Over. AIR
 1969 All 484B (FB) (Oct).
- (1913) ILR 35 All 145 = 11 All LJ 115,
 Prag Narain v. Kadir Bakhsh — Not. F.
 AIR 1969 Madh Pra 32D (Feb).
- (1914) AIR 1914 All 173 = ILR 36 All 446,
 Mata Prasad v. Ramcharan Sahu —
 Disapproved. AIR 1969 SC 316A (Apr).
- (20) AIR 1920 All 80 = ILR 40 All 504,
 Mahomed Yaqub v. Nazir Ahmad —
 Diss. AIR 1969 Pat 33B (Feb).
- (20) AIR 1920 Oudh 70 = 23 Oudh Cas
 96, Secy. of State v. Afzal Hussain —
 Over. AIR 1969 SC 817B (Oct).
- (24) AIR 1924 All 328 = ILR 46 All 489
 (FB), Mubarak Hussain v. Ahmed —
 Diss. AIR 1969 Andh Pra 355B (Oct).
- (26) AIR 1926 All 403 = 24 All LJ 566 =
 27 Cri LJ 945, Bhagwat Singh v. Em-
 peror — Diss. AIR 1969 All 557 (Nov).
- (27) AIR 1927 All 255 = ILR 49 All 391,
 Mohd. Shafi v. Md. Abdul Aziz — Diss.
 AIR 1969 Mys 103D (Mar).
- (28) AIR 1928 All 726 = ILR 50 All 986
 (FB), Sohan Lal v. Mohan Lal — Held
 no longer good law in view of T. P.
 (Amendment) Supplementary Act (21 of
 1929). AIR 1969 SC 1316A (Dec).
- (28) AIR 1928 All 765 = ILR 51 All 382
 = 29 Cri LJ 938, Emperor v. Prag
 Datt — Over. AIR 1969 SC 355A
 (May).
- (29) AIR 1929 All 676 = 1929 All LJ 1028
 = 119 IC 833 = ILR 51 All 986,
 Bhagwan Das v. Zamurad Hussain —
 Diss. AIR 1969 Raj 31B (Mar).
- (29) AIR 1929 All 769 = ILR 52 All 96,
 Secy. of State v. Bhagwan Prasad —
 Diss. AIR 1969 Pat 131 (Apr).
- (32) AIR 1932 All 439 = ILR 54 All 763,
 Postimal v. Radha Kishan Lalchand —
 Diss. AIR 1969 Cal 406A (Aug).
- (34) AIR 1934 All 541 = 1934 All ER 712,
 Badri Das v. Mt. Dhanni — Not. F.
 AIR 1969 Mad 191G (May).
- (35) AIR 1935 All 129 = ILR 57 All 434,
 Ghulam Murtaza v. Fasihunnissa Bibi
 — Held overruled by AIR 1953 SC 225.
 as interpreted AIR 1969 Raj 192A
 (FB) (Jul).
- (38) AIR 1938 All 276 = ILR (1938) All
 252, Prabhu Lal v. District Board, Agra
 — Diss. AIR 1969 Bom 373C (Nov).
- (38) AIR 1938 All 471 = 1938 All LJ 625,
 Makhan Lal v. Baldeo Prosad — Diss.
 AIR 1969 Mys 73A (Mar).
- (39) AIR 1939 All 230 = ILR (1939) All
 258, Ramkumar v. Hiralal — Diss. AIR
 1969 Cal 390B (Aug).
- (41) AIR 1941 All 140 = ILR (1941) All
 295, Janak Nandini v. Kedar Narain —
 Diss. AIR 1969 Guj 28 (Jan).
- (41) AIR 1941 All 277 = ILR (1941) All
 360, Mohamed Mohtashim v. Joti Pra-
 sad — Over. AIR 1969 All 504B, C
 (FB) (Oct).
- (41) AIR 1941 Oudh 409 = 42 Cri LJ 536,
 Nasimullah v. Emperor — Diss. AIR:
 1969 Cal 161C (Apr).
- (43) AIR 1943 Oudh 17 = ILR 18 Luck.
 327, Aliya Begam v. Mohini Bibi —
 Diss. AIR 1969 Bom 373C (Nov).
- (43) AIR 1943 Oudh 354 = 1943 Oudh.
 WN 261 (FB), Abdul Gaffar v. Ishtiaq
 Ali — Diss. AIR 1969 Orissa 114B:
 (May).
- (44) AIR 1944 Oudh 37 = 1943 Oudh WN
 368, Sardar Singar Singh v. Sikri Bro-
 thers — Diss. AIR 1969 Guj 178C (Jun).
- (46) AIR 1946 Oudh 33 = ILR 20 Luck.
 339 (FB), B. Shanker Sahai v. Bhagwat
 Sahai — Held no longer good law in
 view of AIR 1966 SC 1332 as inter-
 preted in AIR 1969 All 504C (FB) (Oct).

- (47) AIR 1947 All 188 = 1946 All LJ 385, Maharaja Bahadur Ram Ram Bijay Prasad v. Sarjoo Singh — Over. AIR 1969 All 220 (FB) (May).
- (50) AIR 1950 All 583 = 1951 All LJ 179, Ramanlal v. Bhagwan Das — Over. AIR 1969 All 333B (FB) (July).
- (51) AIR 1951 All 499, Murari Lal v. Chhidda — Over. AIR 1969 All 484B (FB) (Oct).
- (51) AIR 1951 All 845 = 1951 All LJ 607 (FB), Abdul Ghapoor v. Abdul Rahman — Diss. AIR 1969 Mys 141 (Apr).
- (52) AIR 1952 All 506 = 1952 All LJ 696, Mt. Sughra v. Babu — Diss. AIR 1969 Punj 244A (July).
- (52) AIR 1952 All 695 = 1952 R D (HC) 108, Ram Kumar v. Dominion of India — Diss. AIR 1969 Guj 178C (Jun).
- (52) AIR 1952 All 857 = (1952) 22 ITR 104, Bhagwan Radhakisan v. Commr. of I.-T., U. P. — Over. AIR 1969 SC 1068 (Nov).
- (52) AIR 1952 All 873 = 1952 Cri LJ 1556, Jaddu v. State — Diss. AIR 1969 Ker 111E (Apr).
- (52) AIR 1952 All 996 = ILR (1952) 2 All 984, Mst. Bittan Bibi v. Kuntu Lal — Over. AIR 1969 SC 1238A (Dec).
- (52) 1952-1 Lab LJ 524 (LATI at All), Ganesh Flour Mills Co. v. Their Workmen — Diss. AIR 1969 Mad 374B (Oct).
- (53) AIR 1953 All 797, Ramdas v. Shree Ram — Not. F. AIR 1969 Madh Pra 32D (Feb).
- (54) AIR 1954 All 119 = 1953 All LJ 549, Wasiaq Ali Khan v. Nand Kishore — Diss. AIR 1969 Ker 31 (Jan).
- 1955 All LJ 630 = 1955 All WR (HC) 520, Tata Oil Mills Co., Ltd. v. Dist. Board of Allahabad — Over. AIR 1969 All 40A (FB) (Jan).
- (56) AIR 1956 All LJ 649, Ram Sarup v. State — Diss. AIR 1969 All 557 (Nov).
- (57) AIR 1957 All 206 = 1957 All LJ 18, Amarnath v. Union of India — Over. AIR 1969 All 518 (FB) (Nov).
- (57) AIR 1957 All 433, Western U. P. Electric Power and Supply Co. Ltd., Etawah v. Town Area Jaswant Nagar — Over. AIR 1969 All 40A (FB) (Jan).
- (57) 1957 All LJ 648 = 1957 All WR (HC) 683, Murari v. State — Diss. AIR 1969 All 557 (Nov).
- (60) AIR 1960 All 460 = 1960 Cri LJ 1046, Raj Kishan v. State — Diss. AIR 1969 Andh Pra 99C (Mar).
- (60) AIR 1960 All 599 = 1960 Cri LJ 1279, Chokheyilal Moti Ram v. Babulal Behari Lal — Diss. AIR 1969 Assam 81A (July).
- (60) AIR 1960 All 748 = 1960 Cri LJ 1536, Ram Singh v. State — Diss. AIR 1969 Bom 294A (FB) (Sep).
- (60) F. A. F. O. No. 244 of 1959, D/- 19-5-1960 (All), Smt. Kusum Lata v. Jagadish Prasad — Over. AIR 1969 All 601 (Dec).
- (61) AIR 1961 All 1 = 1960 All LJ 967 = 1960 All WR (HC) 667 (FB), Mahmud Hasan Khan v. Motilal Banker — Diss. AIR 1969 Orissa 32 (Feb).
- (61) AIR 1961 All 133 = (1960) 39 ITR 497 (All), Motilal Purshotam Das v. Income Tax Officer, Kanpur — Over. AIR 1969 SC 667A (Aug).
- (1961) All LJ 743 = 1961 All WR (HC) 430, Raghubir Singh v. Town Area Committee — Over. AIR 1969 All 40A (FB) (Jan).
- (62) Observations of Dwivedi, J., in AIR 1962 All 328 = ILR (1962) 1 All 793 (FB), Ram Autar v. State of U. P. — Diss. AIR 1969 Andh Pra 109 (Mar).
- (62) 1962-1 Lab LJ 697 (All), Shree Gopal Paper Mills, Ltd. v. Inspector of Factories, U. P. — Revers. AIR 1969 All 547 (Nov).
- (62) Civil Misc. Writ No. 1870 of 1961, D/- 5-10-1962 (All), Mohammad Tapar v. R. T. Authority Meerut — Over. AIR 1969 All 269B (Jun).
- (62) F. A. No. 205 of 1950, D/- 24-4-1962 (All), — Revers. AIR 1969 SC 674B (Aug).
- (62) C. M. Writ No. 356 of 1958, D/- 20-4-1962 (All) — Revers. AIR 1969 All 407 (Aug).
- (63) AIR 1963 All 256 = (1963) 1 Cri LJ 722, Wahid v. State — Diss. AIR 1968 Manipur 3 (Jan).
- (63) AIR 1963 All 260 = (1963) 1 Cri LJ 724, Abida Khatoun v. State of U. P. — Over. AIR 1969 SC 1234A (Dec).
- (63) AIR 1963 All 340, Basai v. Hasan Raza Khan — Diss. AIR 1969 Raj 31B (Mar).
- (63) AIR 1963 All 556 = ILR (1963) 1 All 983 (FB) State of U. P. through the Collector of Nainital v. Abdul Karim — Diss. AIR 1969 Pat 131 (Apr).
- (63) ILR (1963) 2 All 325, L. Lakshmiapat Singhania v. Commr. of Income Tax — Revers. AIR 1969 SC 501 (Jun).
- (1963) 48 ITR 346 (All) — Revers. AIR 1969 SC 609 (Aug).
- (1963) 14 STC 518 (All), Swastika Tannery of Jajmau v. Commr. of Sales Tax U. P. — Over. AIR 1969 All 200A (FB) (Apr).
- (63) (1963) 14 S T C 581 (All), Dr. Sukh Dev v. Commr. of Sales Tax, Lucknow — Diss. AIR 1969 Punj 181B (Jun).
- (63) S. A. No. 3809 of 1958 D/- 11-12-1963 (All) — Revers. AIR 1969 SC 1234A (Dec).
- (64) AIR 1964 All 7 = 1963 All LJ 296 (FB), Parmeshwar Dayal v. Addl. Commr., Lucknow — Held impliedly Overruled by AIR 1965 SC 1767 as interpreted in AIR 1969 All 474 (FB) (Oct).
- (64) AIR 1964 All 181, Vishwanath Prasad v. Malkhan Singh — Diss. AIR 1969 Raj 75B (Mar).

- (64) AIR 1964 All 199 = 1964 (1) Cri LJ 502, Municipal Board Faizabad v. Lalchand — Diss. AIR 1969 Ker 179 (Jun).
- (64) AIR 1964 All 441, Loon Karan Sethiya v. Ivan E. John — Revers. AIR 1969 SC 73 (Jan).
- (64) AIR 1964 All 457 = (1964) 1 ITJ 226 = 1964 All LJ 217 (FB), Kunji Lal v. I. T. Commr. — Revers. AIR 1969 SC 840A (Oct).
- (64) AIR 1964 All 498 = 1963 All LJ 667 (FB), Ram Dular Singh v. Babu Sukhu Ram — Held impliedly overruled by AIR 1961 SC 143 as interpreted. AIR 1969 All 304A (FB) (Jun).
- (64) ILR (1964) 2 All 191 — Revers. AIR 1969 SC 135B (Feb).
- (64) S. As. Nos. 4940 and 3660 of 1961, D/- 27-4-1964 (All) — Revers. AIR 1969 SC 1316B (Dec).
- (64) W. P. No. 296 of 1963, D/- 7-8-1964 (All), Jugal Kishore Agarwal v. Regional Transport Authority — Over. AIR 1969 All 365A (FB) (July).
- (65) AIR 1965 All 94 = (1964) 2 ITJ 597 = (1965) 55 ITR 501, Jaganath Mahadeo Prasad v. Commr. of I. T. — Revers. AIR 1969 SC 209 (Mar).
- (65) AIR 1965 All 269 = 1964 All LJ 771 = ILR (1964) 2 All 120, Union of India v. Mahomed Usman — Revers. AIR 1969 SC 474 (Jun).
- (65) AIR 1965 All 280, Kusum Lata v. Kampta Prasad — Over. AIR 1969 All 504B (FB) (Oct).
- (65) AIR 1965 All 406, Dr. Prem Biharilal Saxena v. State of Uttar Pradesh — Revers. AIR 1969 All 449 (FB) (Sep).
- (65) AIR 1965 All 586, National Building Material Supply v. Jai Jai Ram Manohar Lal — Revers. AIR 1969 SC 1267A (Dec).
- (65) ILR (1965) 2 All 383, Riazuddin, Tailor v. Balak Singh — Revers. AIR 1969 SC 1270 (Dec).
- (65) 1965 All LJ 582 = ILR (1965) 2 All 445, Mahabir v. Subba Lal — Over. AIR 1969 All 526A (FB) (Nov).
- (65) 1965 All LJ 1137 = ILR (1966) 1 All 196, Mukteshwari Prasad Tewari v. Ram Wali — Over. AIR 1969 All 526C (FB) (Nov).
- (65) 1965 RD 12 = 1964 All WR (HC) 589, Ganga Singh v. Deputy Director of Consolidation — Over. AIR 1969 All 342A (FB) (July).
- (65) Cri Misc. Contempt Case No. 7 of 1965, D/- 3-8-1965 (All) — Revers. AIR 1969 SC 30 (Jan).
- (65) S. A. No. 1271 of 1962, D/- 2-3-1965 (All) — Revers. AIR 1969 SC 1020A (Nov).
- (65) Civil Misc. Writ No. 2286 of 1965 (All), State of U. P. v. Pradeen Sundar Narain — Over. AIR 1969 All 526A (FB) (Nov).
- (66) AIR 1966 All 265 = 1965 All LJ 994, Jai Narain Rai v. Dist. Magistrate Azamgarh — Diss. AIR 1969 Assam 50A (FB) (May).
- (66) W. P. No. 1827 of 1963, D/- 3-3-1966 (All) — Revers. AIR 1969 All 14A, B (Jan).
- (67) AIR 1967 All 148 = 1966 All LJ 891, Subhash Missir v. Thagai Missir — Diss. AIR 1969 Mad 73E (Mar).
- (67) AIR 1967 All 468 = 1967 Cri LJ 1255, Badri Prasad v. Kripa Shanker — Held no longer good law in view of AIR 1964 SC 1541 as Interpreted. AIR 1969 Ker 97 (Apr).
- (67) Civil Misc. Writ No. 70 of 1967, D/- 10-3-1967 (All), Satya Prakash v. State of U. P. — Over. AIR 1969 All 269B (Jun).
- (67) S. A. No. 322 of 1964, D/- 27-3-1967, (All) — Revers. AIR 1969 SC 556 (July).
- (68) 1968-1 ITJ 662 (All), Modi Spinning and Weaving Mills Co. Ltd. v. Income Tax Officer, Meerut — Revers. AIR 1969 SC 944 (Nov).
- (69) AIR 1969 All 230 = 1969 Lab IC 521, Chandra Mohan v. State of U. P. — Revers. AIR 1969 All 594C (FB) (Dec).

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years.

Owing to late receipt of other Journals the following *supplement* to comparative tables of A. I. R. = Other Journals is issued.

A. I. R. Allahabad = Other Journals

AIR 1967 Allahabad	AIR 1968 Allahabad	AIR 1968 Allahabad	AIR 1968 Allahabad
AIR Other Journals	AIR Other Journals	AIR Other Journals	AIR Other Journals
51FBILR (1968) 1 All 517	91 1968 Serv L R 265	279 1963 Serv L R 843	362 1968 All W R
131 72 I T R 539	100 ILR (1967) 2 All 595	(1969) 2 Lab L J 481	(HC) 690
503 (1968) 2 Lab L J 708	207 ILR (1967) 2 All 454	285 ILR (1967) 2 All 917	363 ILR (1968) 1 All 761
568 (1969) 2 Lab L J 598	214 ILR (1967) 2 All 472	292 ILR (1963) 1 All 60	369FBILR (1968) 2 All 141
	216 ILR (1967) 2 All 478	296FBILR (1968) 1 All 466	396FBILR (1968) 1 All 148
	246 1968 Serv L R 849	316FBILR (1967) 2 All 867	402FBILR (1968) 1 All 165
	259 ILR (1967) 2 All 547	333 ILR (1967) 2 All 502	407 ILR (1968) 1 All 779
	270 (1969, 2 Lab L J 607	355(2) ILR (1968) 1 All 493	422 ILR (1968) 1 All 213
	276 1968 Serv L R 330	1969 All L J 1123	35 F J R 65
	(1969) 2 Lab L J 594	1970 Serv L R 125	(1939) 2 Lab L J 470
AIR 1968 Allahabad			
AIR Other Journals			
75 (1969) 2 Lab L J 477			

A. I. R. 1969 Allahabad = Other Journals

AIR Other Journals	AIR Other Journals	AIR Other Journals	AIR Other Journals
1 [CN 1]	82con1968 All Cri R 57	183con1969 Cri L J 456(1)	242 [CN 50]
FB 1968 All W R	1969 Cri L J 189	184 [CN 36]	17 Fac L R 420
(HC) 377	ILR (1968) 1 All 908	1968 All W R	1969 Lab I C 531
1968 All L J 568	88 [CN 17] ...	(HC) 204	245 [CN 51]
(1968) 2 Com	105 [CN 18] ...	1968 All Cri R 134	FB 1968 All W R
L J 187	109 [CN 19]	1968 All L J 476	(HC) 554
39 Com Cas 193	1969 Cri L J 347	1969 Cri L J 456(2)	1968 All L J 792
ILR (1968) 2 All 56	112 [CN 20]	188 [CN 37] ...	248 [CN 52] ...
11 [CN 2]	1968 All L J 360	189 [CN 38]	269 [CN 53]
1969 Lab I C 1	116 [CN 21]	1969 Cri L J 460	FB 1968 All L J 279
(1969) 2 Lab L J 603	1968 All W R	1969 All Cri R 212	1969 All W R
14 [CN 3]	(HC) 134	1969 All W R	(HC) 420
1968 All L J 402	1968 All Cri R 98	191 [CN 39]	ILR (1968) 1 All 280
ILR (1968) 1 All 877	1968 All L J 439	1968 All W R	278 [CN 54]
26 [CN 4]	1969 Cri L J 350	(HC) 461	FB 1967 All W R
FB 1967 All W R	119 [CN 22] ...	1968 All Cri R 299	(HC) 845(2)
(HC) 603	123 [CN 23] ...	1968 All L J 697	1968 All L J 339
1968 All L J 89	1969 Cri L J 354	1969 Cri L J 517	1969 Lab I C 831
ILR (1968) 1 All 73	129 [CN 24] ...	195 [CN 40] ...	ILR (1968) 1 All 87
81 [CN 5] ...	130 [CN 25]	200 [CN 41]	296 [CN 55]
25 [CN 6]	1969 All W R	FB 22 S T C 94	FB 1968 All L J 225
1967 All W R	(HC) 98	1968 All L J 547	ILR (1963) 1 All 329
(HC) 625	1969 Cri L J 359	ILR (1968) 2 All 99	304 [CN 56]
1968 All L J 998	1969 All Cr R 63	205 [CN 42]	FB 1967 All W R
40 [CN 7]	139 [CN 26]	FB 1968 All L J 497	(HC) 246
FB 1968 All W R	1968 All L J 584	(1969) 23 S T C 388	1967 All L J 980
(HC) 388	142 [CN 27]	ILR (1968) 2 All 85	ILR (1967) 2 All 689
1968 All L J 665	FB 1968 All W R	210 [CN 43]	317 [CN 57]
ILR (1968) 2 All 114	(HC) 120	ILR (1968) 2 All 22	FB 1967 All L J 999
43 [CN 8] ...	1968 All L J 243	213 [CN 44]	333 [CN 58]
56 [CN 9]	ILR (1968) 1 All 177	1969 Lab I C 518	FB 1967 All W R
1968 All L J 641	155 [CN 28] ...	216 [CN 45]	(HC) 668
ILR (1968) 2 All 270	159 [CN 29]	1967 All W R	1967 All L J 944
61 [CN 10]	1963 All L J 176	(HC) 649	342 [CN 59]
1969 Cri L J 129	1969 Cri L J 449	1967 All Cri R 418	FB 1967 All W R
65 [CN 11] ...	161 [CN 30] ...	1969 Cri L J 585(2)	(HC) 731
68 [CN 12]	162 [CN 31] ...	220 [CN 46]	1968 All L J 144
1969 Cri L J 133	165 [CN 32]	FB 1968 All W R	ILR (1967) 2 All 775
72 [CN 13]	1969 Cri L J 450	(HC) 224	363 [CN 60] ...
1968 All L J 587	170 [CN 33]	1968 All L J 335	365 [CN 61]
75 [CN 14]	FB 1968 All W R	ILR (1968) 1 All 352	FB 1969 All L J 269
ILR (1968) 2 All 959	(HC) 65	223 [CN 47] ...	370 [CN 62]
80 [CN 15]	1968 All L J 306	230 [CN 48]	1969 Lab I C 929
1968 All W R	ILR (1968) 1 All 448	1969 Lab I C 521	375 [CN 63]
(HC) 262	177 [CN 34]	241 [CN 49]	71 I T R 624
1968 All Cri R 169	1969 All L J 72	1968 All L J 429	378 [CN 64]
1969 Cri L J 137	183 [CN 35]	1968 All Cri R 217	FB 1968 All L J 132
82 [CN 16]	1968 All W R	1968 All W R	16 Fac L R 255
1968 All W R	(HC) 259	(HC) 334	ILR (1968) 1 All 131
(HC) 88	1968 All Cri R 164	1969 Cri L J 590	883 [CN 65]
1968 All L J 325	1968 All L J 779		(1969) 2 I T J 873

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
387 [CN 66]		423con 1969 Cri L J 1089		503 [ON 92]		548con 1969 Cri L J 1335	
(1968) 2 I T J 919		432 [CN 79]		1968 All W R		551 [CN 104] ...	
71 I T R 263		1968 All L J 391		(HC) 575		554 [CN 105]	
390 [CN 67]		(1967) 17 Fac		1968 All Cri R 357		1963 All L J 555	
(1968) 2 I T J 614		LR 172		1969 Cri L J 12.7		ILR (1968) 2 All 41	
71 I T R 204		1969 Lab I C 1058		504 [CN 93]		657 [ON 105]	
393 [CN 68] ...		436 [CN 80]		FB 1968 All L J 1047		1963 All W R	
399 [CN 69] ...		1963 All L J 396		1968 All W R		(HC) 497	
400 [CN 70] ...		1969 Cri L J 1097		(HC) 704		1968 All Cri R 331	
403 [CN 71]		440 [CN 81]		512 [CN 94]		1969 Cri L J 1338	
1969 All W R		1968 All W R		1963 Cri L J 1452		660 [CN 107]	
(HC) 240		(HC) 195		513 [CN 95]		1969 All W R	
1969 All (Cri) R 165		441 [CN 82]		1968 All Cri R 569		(HC) 264	
1969 Cri L J 961		FB 1968 All W R		1963 All W R		1969 All Cri R 176	
		(HC) 215		(HC) 865		666 [ON 108]	
405 [ON 72]		1968 All L J 364		1969 Cri L J 1329		72 I T R 489	
1969 Cri L J 963		ILR (1968) 1 All 260		516 [CN 96]		(1963) 2 I T J 143	
407 [ON 73]		449 [CN 83]		1968 All L J 1046		571 [ON 109]	
ILR (1968) 1 All 435		FB 1968 All L J 948		23 S T G 314		1968 All L J 1079	
409 [CN 74]		(1969) 1 Lab L J 247		518 [ON 97]		583 [CN 110]	
1967 All W R		1969 Lab I O 1063		FB 1968 All W R		1968 All W R	
(HC) 812		466 [CN 84] ...		(HC) 837		(HC) 662	
1967 All L J 1049		472 [CN 85]		1963 All L J 903		1968 All Cri R 432	
ILR (1968) 1 All 422		1969 Lab I C 1186		ILR (1968) 2 All 319		1968 All L J 988	
414 [CN 75]		474 [CN 86]		521 [CN 98]		1969 Cri L J 1464	
FB 1967 All W R		FB 1968 All W R		1968 All W R		591 [ON 111]	
(HC) 362		(HC) 572		(HC) 464		1968 All W R	
1967 All L J 466		1968 All L J 713		1968 All Cri R 303		(HC) 298	
15 Fac L R 51		1969 Ren C R 90		1969 Cri L J 1332		1968 All Cri R 206	
(1968) 2 Lab L J 16		ILR (1968) 2 All 309		524 [CN 99]		1969 Cri L J 1473	
ILR (1967) 2 All 652		478 [CN 87]		1969 All L J 62		594 [CN 112]	
1969 Cri L J 1011		1968 All W R		526 [CN 100]		FB 1969 All W R	
1969 Lab I C 930		(HC) 481		FB 1968 All L J 1108		(HC) 82	
419 [ON 76]		1968 All Cri R 318		1968 All W R		1969 All L J 181	
1968 All L J 39		1939 Cri L J 1202		(HC) 731		1969 Lab I C 1407	
ILR (1968) 1 All 711		479 [CN 88] ...		542 [CN 101]		601 [CN 113]	
422 [ON 77]		480 [CN 89]		1969 Lab I O 1318		1968 All W R	
1968 All L J 554		1969 Lab I C 1183		517 [CN 102]		(HC) 429	
(1969) 2 Lab L J 584		484 [CN 90] FB		1968 All L J 381		1968 All L J 576	
1969 Lab I O 1057		1969 All L J 19		18 Fac L R 415		603 [CN 114]	
423 [ON 78]		1969 All W R		1969 Lab I O 1323		1968 All W R	
1967 All Cri R 508		(HC) 66		36 F J R 216		(HC) 329	
1967 All W R		489 [ON 91]		548 [ON 103]		1968 All L J 764	
(HC) 749		1969 Cri L J 1203		1968 All L J 65		ILR (1969) 2 All 32	
1968 All L J 466						604 [CN 115] ...	

Other Journals = All India Reporter

ILR (1967) 2 All	ILR (1967) 2 All	ILR (1968) 1 All	ILR (1968) 2 All	1963 All Cri R
(Oct to Dec 1967)				
ILR AIR	ILR AIR	ILR AIR	ILR AIR	All Cri R AIR
406 1967 SO 1384	867 1968 All 316	493 1968 All 355(2)	243 1968 Cri L J 1342	318 1969 All 478
412 " " 1386	917 " " 285	517 1967 " 51	257 1969 Lab I C 609	324 1969 Cri
423 " " 1233		711 1969 " 419	270 " All 56	L J 1154
454 1968 All 207	ILR (1968) 1 All	761 1968 " 363	289 1970 " 26	331 " All 557
472 " " 214	ILR AIR	779 " " 407	309 1969 " 474	357 " " 503
478 " " 216	60 1968 All 292	864 " SO 728	319 " " 518	366 1970 Cri L J 82
502 " " 333	73 1969 " 26	871 " " 954	345 1970 All 154	432 1969 All 583
547 " " 259	87 " " 278	908 " " 82		537 1970 " 164
595 " " 100	131 " " 378	923 1968 SC 960	1967 All Cri R	551 " Cri L J 78
634 1967 SO 1747	148 1968 " 396	959 1969 All 75	All Cri R AIR	559 1969 All 513
652 1969 All 414	165 " " 402		418 1969 All 216	578 1970 " 115
663 1968 SC 111	177 1969 " 142	ILR (1968) 2 All	608 " " 423	
670 " " 5	221 1968 SC 450	(July and Aug '68)		1969 All Cri R
688 1969 All 304	230 " " 465	ILR AIR		All Cri R AIR
741 1967 SO 1631	243 " All 422	1 1968 SC 772	1968 All Cri R	47 1968 Panj 520
749 1968 " 114	252 " SO 410	22 1969 All 210	All Cri R AIR	49 " SC 1444
769 " " 46	260 1969 All 441	32 " " 603	98 1969 All 116	63 1969 All 130
768 " " 102	280 " " 269	41 " " 554	134 " " 184	107 1970 " 185
775 1969 All 342	328 " " 296	56 " " 1	164 " " 183	154 1968 SC 1422
827 1968 SO 261	352 " " 220	85 " " 205	206 " " 591	157 1969 " 40
839 " " 227	422 " " 409	99 " " 200	217 " " 241	165 " All 403
850 " " 384	435 " " 407	114 " " 40	220 1970 Cri L J 123	176 " " 560
863 " " 365	448 " " 170	141 1968 " 369	229 1969 All 191	198 1970 All 122
	466 1968 " 295		303 " " 521	

1969 All Cri R

All Cr R	AIR
212 1969 All	189
224 " SC	355
257 1968 " "	1402
272 " " "	1464
312 1969 SO	689
325 " " "	686
339 1970 SC	140
349 1969 " "	422
425 1968 Oriasa	71
426 1970 Cri	
L J 112	
428(1) 1968 Cri	
L J 1669(1)	
439 1970 SC	20
450 1968 Ori	160
455 1969 Mys	203

1967 All L J

All L J	AIR
486 1969 All	414
944 " " "	333
960 " " "	304
999 " " "	317
1049 " " "	409

1968 All L J

All L J	AIR
39 1969 All	419
65 " " "	548
132 " " "	378
144 " " "	342
175 " " "	159
225 " " "	296
243 " " "	142
279 " " "	269
308 " " "	170
339 " " "	278
360 " " "	112
384 " " "	441
381 " " "	547
391 " " "	432
396 " " "	436
429 " " "	241
439 " " "	116
466 " " "	423
476 " " "	184
497 " " "	205
510 " Lab IO	609
547 " All	200
554 " " "	422
555 " " "	554
584 " " "	139
676 " " "	601
697 " " "	191
713 " " "	474
750 " Cri	
L J 1154	
764 " All	603
779 " " "	183
792 " " "	245
903 " " "	518
948 " " "	449
877 1970 " "	115
982 " " "	26
988 1969 " "	583
1004 1970 Cri L J	123
1046 1969 All	516
1047 " " "	504
1074 " Lab IO	766
1079 " All	571
1108 " " "	526

1969 All L J

All L J	AIR
1 1969 SO	53
9 1970 All	102
19 1969 " "	484
33 1970 " "	20
51 1969 SO	7
53 1968 " "	1273
62 1969 All	524
68 1968 SC	1893
72 1969 All	177
87 1970 " "	1
103 " " "	182
117 " " "	43
159 1969 SO	255
181 " All	594
244 1970 " "	15
281 1969 Lab IO	338
269 " All	365
290 " SO	253
309 1970 All	122
323 1969 SO	193
344 " " "	313
377 1968 " "	1509
387 1969 " "	474
389 " " "	401
394 " " "	258
421 1970 All	180
432 " " "	159
462 1969 SO	395
467 1968 " "	1292
475 1969 " "	297
543 1970 All	190
550 " " "	146
556 " " "	130
570 1969 SO	674
574 1970 All	151
596 1969 SC	556
625 1970 All	165
635 1969 SC	683
638 " " "	422
657 1970 All	51
736 1969 SO	499
988 " " "	1118
1006 " " "	1238
1009 " Lab IO	204
1071 1970 SO	58
1074 1968 " "	1073
1123 " All	355(2)

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W R (HC)

All W R (HC)	AIR
362 1969 All	414
426 " " "	304
649 " " "	216
668 " " "	333
731 " " "	342
789 " " "	423
812 " " "	409
845 (2) " "	278

1968 All
W R (HC)

All W R (HC)	AIR
42 1969 All	269
65 " " "	170
120 " " "	142
134 " " "	116
195 " " "	440
200 " Cri	
L J 536	
204 " All	184
215 " " "	441

1968 All W R (HC)

All W R (HC)	AIR
259 1969 All	183
298 " " "	591
329 " " "	603
334 " " "	241
337 1970 Cri	
L J 123	
429 1969 All	601
461 " " "	191
464 " " "	521
481 " " "	478
497 " " "	557
503 " Cri	
L J 1154	
554 " All	245
559 1970 " "	26
572 1969 " "	474
575 " " "	503
583 1970 Cri	
L J 82	
637 1969 All	518
662 " " "	583
704 " " "	504
722 1968 SC	1351
731 1969 All	526
823 1970 " "	154
855 " Cri	
L J 78	
865 1969 All	513
878 1970 " "	115
884 1969 SO	73
890 1968 All	362

1969 All
W R (HC)

All W R (HC)	AIR
48 1970 All	15
59 1968 SO	1444
66 1969 All	484
82 " " "	594
98 " " "	130
137 1970 " "	159
143 " " "	185
162 " " "	125
180 " " "	180
223 1968 SC	1422
227 1969 " "	40
240 " All	403
264 " " "	560
285 1970 " "	130
306 1969 SO	1349
309 1970 All	146
314 " " "	122
337 1969 " "	189
351 " SO	355
404 1968 " "	1402
421 " " "	1484
473 1969 " "	689
497 " " "	686
511 1970 " "	140
526 " All	161
549 1969 SO	422
738 " " "	874

(1961) 3 Fac L R

FLR	AIR
261 1969 Lab	
IO 1158	
348 " " "	485

(1967) 14 Fac LR

Fac L R	AIR
169 1969 Lab	
IO 371	
207 " " "	490

(1967) 15 Fac LR

Fac L R	AIR
51 1969 All	414
98 " Lab	
IO 778	

(1968) 16 Fac LR

Fac L R	AIR
118 1969 Lab	
IO 478	
255 " All	378
415 " " "	547
418 " Lab	
IO 710	
440 " " "	483
484 " " "	773

(1968) 17 Fac LR

Fac L R	AIR
30 1969 Lab	
IO 1249	
50 " Cal	95
67 " Lab	
IO 610	
78 " Cal	397
172 " All	432
185 1970 " "	24
218 1969 SO	530
251 " Mad	121
266 " Bom	310
305 " Lab	
IO 609	
324 " Bom	274
335 " Lab	
IO 227	
360 " Mad	81
364 " Lab	
IO 1027	
401 " Mys	171
411 " SO	118
420 " All	242
425 " Lab	
IO 729	
430 " Mys	202
433 " Lab	
IO 1293	
434 " " "	360
445 1968 SO	800

(1969) 18 Fac LR

Fac L R	AIR
3 1969 Lab	
IO 1017	
6 " " "	1420
10 " SO	276
22 " Madh	
Pra 176	
27 " " "	46
30 " " "	62
44 1969 Lab	
IO 887	
52 " Mad	370
58 " Andh	
Pra 200	
63 " Mys	196

(1969) 18 Fac LR

Fac L R	AIR
82 1969 Mad	440
87 " Cal	461
100 1968 SO	1495
112 1967 J &	
K 98	
125 1969 SO	180
128 1968 Cal	278
144 1969 Mad	407
146 " " "	273
149 " " "	406
159 " SO	235
164 " " "	306
172 " " "	360
189 " " "	182
197 " Lab	
IO 766	
201 " " "	1029
212 " Mad	477
215 1970 Lab	
IO 68	
264 1968 " "	1255
269 " " "	328
280 " Punj	66
284 " SO	590
293 1970 Lab	
IO 96	
300 1969 SO	966
308 1970 " "	87
315 1969 " "	513
336 " " "	612
357 " Lab	
IO 1579	
373 " SC	1355
387 " Mys	300
392 1970 " "	66
397 " SO	

19 Fac LR

Fac L R	AIR
11 1969 Assam	33
15 " Lab	
IO 118	
21 1968 " "	1249
27 1970 SO	82
56 " " "	245
67 1969 " "	762
71 1970 Lab	
IO 115	
79 " SO	390
90 1968 Lab	
IO 1833	
94 1969 Kor	313
98 1970 Lab	
IO 98	
101 1969 " "	1415
117 1970 SO	196
140 1969 " "	1308
180 " " "	992
191 " " "	883
203 " " "	998
212 " " "	976
242 " Lab	
IO 1448	
246 1968 SO	1867
258 1970 " "	70
268 " " "	237
302 1968 Andh	
Pra 362	
306 1970 Mad	82
359 " Lab	
IO 95	
376 1969 SO	1280

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ANDHRA PRADESH SECTION

WITH COMPARATIVE TABLES FOR

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ANDHRA PRADESH HIGH COURT

1969

CHIEF JUSTICES :

The Hon'ble Mr. Justice P. Jaganmohan Reddy, B.COM. (Leeds), B.A., LL.B. (Cantab),
Bar-at-law, up to 6-6-69, 7-7-69 to 31-7-69.
" " N. Kumarayya Ayyar, B.A., LL.B., H.C.S. From 7-6-69 to 6-7-69.
Acting C. J. FROM 1-8-69.

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The Hon'ble Mr. Justice N. Kumarayya, B.A., LL.B., H.C.S. up to 6-6-69, 7-7-69 to
31-7-69

" " H. Anantanarayana Ayyar, I.C.S. up to 23-11-1969
" " K. Venkata Lakshmi Narasimham, B.A., B.L.
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" " A. D. V. Reddy, M.A., B.L., Bar-at-law, From 27-9-69
" " Y. Venkateswara Rao, B.A., B.L. From 24-11-69.

ADDITIONAL JUDGES :

The Hon'ble Mr. Justice A. D. V. Reddy, M.A., B.L., Bar-at-law upto 27-9-69
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NOMINAL TABLE

Adapa Vittal v. Govula Ramakistiah	(May) 169	Hyderabad Stock Exchange Ltd., Hyderabad v. Commissioner of Income-tax, Andhra Pradesh	(Jan) 4
Ahmadunnisa Begum v. Union of India	(Dec) 423	Illapu Nookalamma v. Illapu Simchachalam	(March) 82
Andhavarapu Sreeramamurthy v. Government of Andhra Pradesh	(July) 225	Income Tax Officer v. Vemulapalli and Sons (P) Ltd.	(April) 140
Andhra Pradesh State Electricity Board v. N. Ramachandra Rao	(Sep) 328	Income-tax Officer, Masulipatnam v. K. Srinivasa Rao	(Dec) 441
Ankaiah, K. v. Government of Andhra Pradesh	(July) 231	Jagannadha Tiravenkatachariar v. Andalamma	(Aug) 303
Anna Nagedram and Bommareddi Venkayya and Co., Duggirala v. Commissioner of Income-tax, Andhra Pradesh	(Jan) 6	Janardhan Reddy, K. v. VIth City Magistrate, Criminal Court Hyderabad	(May) 150
Ansari, A. M. v. Board of Revenue, Andhra Pradesh	(Nov) 399	Jujjuvarapu Kotamma v. Pappala Simbachalam	(Feb) 76
Ayyagari Samsamkaram v. Inspector General of Registration and Stamps A. P.	(April) 134	Kalagara Rama, Smt. v. Subhadaya Publications Ltd.	(June) 207
Bandi Naidu v. Pavuluri Ramamujiah	(Jan) 22	Katragadda Ramayya v. Kolli Nageswararao	(July) 250 (FB)
Basivi Reddy, K. v. Guntur Municipality	(Sep) 325	Kerla Ankamma Devasthanam v. Manikonda Venkata Ratnama	(Jan) 13
Basti Ram Narain Das v. State of Andhra Pradesh	(July) 227	Konakanchi Nagayya v. Kondramutla Hanumiah	(Feb) 45
Branch Manager, Hindustan General Insurance Co. Ltd., Hyderabad v. M. Saramma	(Nov) 390	Konda Anthiah v. Madan Rao	(July) 211
Chimalakonda Ambayamma v. Chimalakonda Ganapathi	(July) 213	Koppadu Dharma Rao v. Kovuru Satyavathi	(April) 129
Chinnappa Reddy, M. v. State of Andhra Pradesh	(July) 234	Kurella Ratnam v. Mokhamatla Bhadraiah	(July) 236
Cisiviset Sastrulu v. Andhra Pradesh	(Feb) 59	Kruthiventi Kutumba Rao v. Muthi Venkata Subba Rao	(Feb) 47
Commissioner of Income-tax, Andhra Pradesh v. Bharat Trading Co., Nizamabad	(Jan) 3	Kuppu Damayanthi v. C. Rama Rao	(Feb) 62
Court of Wards Paigah, Sir Vicarul-Umra, Hyderabad v. Commissioner of Wealth-Tax, Andhra Pradesh, Hyderabad	(Oct) 345 (FB)	Lakkaraju Somunaidu v. Majji Gangamma	(June) 192
Dasa K. Lakshmiah v. Union Government	(Nov) 386	Madhavarapu Sriramamurthy v. Mamidala Subbamma	(July) 215
Dasaradharami Reddy, K. v. Union of India	(Feb) 39	Mahommed Fiazuddin Khan v. Custodian Evacuee Property Andhra Pradesh	(May) 153
Devaiah, In re	(Dec) 444	Mahommed Haneef v. K. P. Narasi Reddy	(June) 206
Juru Venkata Subbayya v. Srishti Veerayya	(March) 92	Manavala K. Naicker v. K. R. Gopala Krishnaiah Chetti	(Dec) 417
Garuda Satyanarayana v. Grandhi Venkatachalapathi Rao	(April) 131	Manne Venkatanarayana v. Tivari Yagna Prasad	(Sep) 335
Gopalaiah, B. v. Andhra Pradesh	(June) 204	Maram Ramachandraiah and Pedda Subramanyam v. State	(Nov) 414
Gurvamma v. Gopalam	(Oct) 338	Masgi Bitchanna, In re	(Feb) 54
		Mastanaiah, P. v. Delimitation Commissioner, New Delhi	(Jan) 1
		Mechanical Superintendent, the Visakapatnam Port Trust v. Authority under the Payment of Wages Act, Visakhapatnam	(June) 200

Mir Behbood Ali Khan v. Government of India	(March) 106	Sakhamani Anantha Padmanabha Prasad v. Addepalli Venkataramanaiah	(May) 145
Mir Niyamath Ali Khan v. Commercial and Industrial Bank Ltd.	(Aug) 294	Samanthapudi Surannamukhi v. Virupakshamma	(Jan) 23
Miryala Venkateswarlu and Co. v. Battula Venkata Peraiah and Venkateswarlu and Co.	(March) 88	Santha Kumari, K. v. K. Suseeladevi	(Oct) 355
Movva Butchamma v. Movva Venkateswararao	(April) 136	Sarma, V. V. v. State of Andhra Pradesh	(April) 118
Nanne Saheb, S. K. v. State of A. P.	(June) 183	Satyam v. Krishna Murthy	(July) 237
Narasimham, D. V. v. State	(Aug) 271	Satyanarayana, R. v. Saidayya	(May) 151
Narasimha Rao, N. V. L. v. Kotha Raghuramayya	(Feb) 68	Satyanarayana Khaitan (P) Ltd., Chipurupalli v. Government of India	(Nov) 410
Narayanlal P. Lahoti v. Controller of Estate Duty, A. P.	(June) 188	Satyanarayana Murthy v. Zonal Manager, Life Insurance Corporation of India, Madras	(Oct) 371
Neelam Mangathayaramma v. Secretary, Regional Transport Authority	(June) 188	Shah Hastimal Heeraji v. Assistant Collector, Central Excise, Anantapur	(April) 139
Official Receiver, Anantapur v. Kondeti Suryanarayana	(Dec) 437	Shimoga Oil Mills v. Sri Radhakrishna Oil Mills Kadiri	(Aug) 263
Padmanabha, P. v. High Court of Andhra Pradesh	(June) 195	Shishu Vihar Bhagini Mandal, Hyderabad v. Yellaiah	(May) 148
Paidimarri Balasubba Chetty and Sons v. Jutur Reddiya	(Dec) 446	Sikander Shah v. Syed Abdul Rehman	(May) 146
Panchakshara Reddy, K. v. N. Krishna Reddy	(Feb) 67	Special Tahsildar, Land Acquisition v. Thatikonda Ramalinga Setty	(April) 124
Papayamma, P. v. M. Gopalakrishnamurthy	(Oct) 341	Sri Vallabharana Swami Varu (Deity) of Swarna v. Deevi Hanumacharyulu	(Nov) 392
Papi Reddi v. Rami Reddi	(Oct) 362	State of Andhra Pradesh v. A. Munuswami Reddy	(July) 221
Paturi Veeranna v. Pathuri Seethamma	(Jan) 15	State of Andhra Pradesh v. Digyadarsan	(Jan) 9
Pedda Muthyalareddy v. Venkatarreddy	(July) 242 (FB)	Suranna, M. v. K. Somulu	(Oct) 368
Pedda Subba Reddy v. State	(Aug) 281	Suryanarayana Rao, R. D. v. Revenue Divisional Officer, Land Acquisition Officer, Guntur	(Feb) 55 (FB)
Poonamalli Ramayya v. State of Andhra Pradesh	(Jan) 21	Swamy, P. K. v. South Eastern Railway, Calcutta	(May) 155
Public Prosecutor v. Avvaru Annappa	(Aug) 278	Taj Mahal Hotel, Secunderabad v. Commissioner of Income-tax, Hyderabad	(March) 84
Public Prosecutor v. Hatam Bhai	(March) 99	Thimmappa, P. v. P. Chinna Thimmappa	(July) 222
Public Prosecutor v. Kanumarlapudi Ramalingaiah	(Dec) 445	Thummalapalli Ramalingeswaraswamy v. Commercial Tax Officer, Tadepalligudem	(April) 127
Public Prosecutor v. Mohammed Ali	(Feb) 41	Torsion Products Ltd. v. Director of Industries, Hyderabad	(Oct) 374
Public Prosecutor v. Papanna	(Aug) 291	Tupurani Vodavalli Tayaru v. Official Receiver, West Godavari	(April) 143
Purapabutchi Rama Rao v. Purapa Vimalakumari	(July) 216	Yaddaboyina Sesha Reddi v. Vaddaboying Tulasamma	(Aug) 300
Puttaparatti Atchamma v. T. Bayanna	(June) 196	Venkata Satyanarayana v. Subbarao	(Jan) 29
Pydi Lakshmanma v. Duppala Krishnamurthy	(Nov) 415		
Ravi Nagabhushanam v. Neti Gopala Krishna Murthy	(June) 184		
Rukminamma v. Ramakrishna Rao	(April) 128		

Venkata Subbayya, K. v. District Collector, Chittoor	(Oct) 381	Venugopalaswamy Varu Temple v. V. Visweswara Prasad	(Jan) 24
Venkataratnam, G. v. Principal, Osmania Medical College, Hyderabad	(Feb) 35	Viswanatham, K. v. State of Andhra Pradesh	(March) 109
Venkateswarlu v. Jalamma	(Sep) 318	Yousuf Begam v. State of Andhra Pradesh	(Jan) 10
Venugopalaswamy Temple, Ternali v. Kakumarree Anjaneyulu	(Jan) 18		

SUBJECT INDEX

- Administration of Evacuee Property Act (31 of 1950), Ss. 1 and 2 (a)** — Allotment of property declared as evacuee under Act—No provision in law that the property must be allotted to the evacuee (May) 158A
- S. 2 (a) — Property declared as evacuee property — No provision in the Act that it should be allotted to the evacuee—See Administration of Evacuee Property Act (1950), S. 1 (May) 158A
- Andhra General Service Special Rules**
See under Civil Services.
- Andhra Pradesh (Andhra Area) Agriculturists Relief Act (4 of 1938)**
See under Debt Laws.
- Andhra Pradesh (Andhra Area) Hindu Religious and Charitable Endowments Act (19 of 1951), S. 6 (14)**—Personal grant in favour of Archaka burdened with service — No contribution under S. 76 can be claimed—See Andhra Pradesh (Andhra Area) Hindu Religious and Charitable Endowments Act (19 of 1951), S. 76 (Nov) 392C
- Ss. 76, 6 (14) — Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act (17 of 1966), Ss. 59, 2 (21), 109—Personal grant, in favour of Archaka, burdened with service — No contribution under S. 76 of 1951 Act can be claimed—Position is same even after coming into force of 1966 Act (Nov) 392C
- Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act (17 of 1966), S. 2 (21)** — Personal grant—Liability to pay contribution — See Andhra Pradesh (Andhra Area) Hindu Religious and Charitable Endowments Act (19 of 1951), S. 76 (Nov) 392C
- S. 109 — Personal grant — Liability to pay contribution — See Andhra Pradesh
- Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act (contd.)**
(Andhra Area) Hindu Religious and Charitable Endowments Act (19 of 1951), S. 76 (Nov) 392C
- Andhra Pradesh Court-fees and Suits Valuation Act (7 of 1956)**
See under Court-fees and Suits Valuations.
- Andhra Pradesh General Sales Tax Act (6 of 1957)**
See under Sales Tax.
- Andhra Pradesh Gram Panchayat Act (2 of 1964)**
See under Panchayats.
- Andhra Pradesh Motor Vehicles Rules (1964), R. 169**—Renewal of permit—Power to vary conditions of permit — See Motor Vehicles Act (4 of 1939), S. 48 (3) (June) 180
- R. 517—Proceeding for compensation—Notice to person insured under R. 517 is necessary — See Motor Vehicles Act (4 of 1939), S. 96 (1) (Nov) 390
- Andhra Pradesh Rice Procurement (Levy) Order (1964), Cl. 3** — Notice by Grain Purchasing Officer to licensed rice miller to sell rice—Default by miller—Plea e.g., non-liability to sell because of alleged defects in requisitioning or omission to name the person to whom rice was to be delivered could be raised and tried at trial — Writ petition on such grounds not maintainable—See Constitution of India, Art. 226: (Feb) 59A
- Cl. 3 — Miller obtaining licence after order was rescinded — Failure to comply with notice under order — Effect—Writ of prohibition lies (Feb) 59B
- Andhra Pradesh State Higher Judicial Service Special Rules**
See under Civil Services.
- Andhra Pradesh Sugar Dealers' Licensing Order, (1936)**—Requirement of maintenance of forms — Order is not unreasonable (Nov) 414B

Andhra State Act (30 of 1953), S. 28—High Court of Andhra Pradesh — Jurisdiction of High Court under Art. 226 of Constitution and Clause 13, Letters Patent — Distinction and effect—*See* Limitation Act (1908), Art. 182

(Oct) 381

—**S. 32**—High Court of Andhra Pradesh—Jurisdiction of High Court under Art. 226 of Constitution and Clause 13, Letters Patent—Distinction and effect — *See* Limitation Act (1908), Art. 182

(Oct) 381

Andhra Tenancy Act (18 of 1956)

See under Tenancy Laws.

Central Excises and Salt Act (1 of 1944), S. 14—Dy. Supdt. Central Excise is not Police Officer within S. 25, Evidence Act — *See* Evidence Act (1872), S. 25

(Aug) 278B

Civil Procedure Code (5 of 1908), Pre.—Interpretation of Statutes—Codification of law—Object of codification—*See* Hindu Adoptions and Maintenance Act (1956), Preamble

(Jan) 15A

—**Pre.**—Interpretation of Statutes—Definitions—Use of word “includes” in interpretation clause, enlarges the nature and import —It also adds to the natural significance of the word defined — Use of word “means” is to exhaust the significance of the word defined

(Mar) 84A

—**Pre.**—Interpretation of Statutes—Intention and meaning must be found in words used from their natural meaning — Use of dictionaries and standard authors is permissible—Giving of plain and natural meaning is especially important in interpreting statutes of taxation

(Mar) 84B

—**Pre.**—Interpretation of Statutes—While interpreting a provision of Statute grammatical, natural and ordinary sense of words used is to be adhered to unless that would lead to some absurdity, repugnancy or inconsistency with regard to rest of provisions —A verbis legis non est residendum (from the words of the law, there should not be any departure)

(Sep) 335A

—**Pre.**—Interpretation of Statutes—Words “agriculture” and “agricultural” used in different senses and bear different meanings —They should not be given restricted meaning, in construing Central Acts—*See* Wealth Tax Act (1957), S. 2 (e) (i)

(Oct) 345A (FB)

—**Pre.**—Interpretation of Statutes—Penal provision — A penal provision like S. 35, Stamp Act cannot be made applicable by inferences — *See* Municipalities — Madras District Municipalities Act (5 of 1920), S. 78-A

(Dec) 417B

—**Pre.**—Judicial — Precedent is authority for what is actually decided in the case and not for other observations

(Feb) 55C (FB)

Civil P. C. (contd.)

—**Pre.**—Precedent, value of (June) 196D

—**S. 2 (2) (9)** — Order in respect of compensation awarded under Land Acquisition Act (1894) is a decree — *See* Land Acquisition Act (1894), S. 23

(Feb) 55B (FB)

—**S. 6** — Claim suit against execution of decree for costs—Court competent to entertain suit under S. 15 read with S. 6 can stay exemption of decree—Decree whether passed by superior Court is immaterial — *See* Civil P. C. (1908), S. 151

(July) 236A

—**S. 9**—Right to perform spiritual duties —Neither right nor office unless attached to shrine—It is not also property — Right unenforceable in Civil Court—*See* Hindu Law

(Aug) 303 (FB)

—**S. 9** — Agreement between Ruler and Government of India — Whether succession to personal or private property was made subject-matter of guarantee or assurance—Ascertainment — Court can look into terms of agreement — *See* Constitution of India, Art. 363

(Dec) 423A

—**S. 9** — Certificate by Government of India recognising person as sole successor to all private properties held by late Nawab —Jurisdiction of Courts not barred under Art. 363 of the Constitution to agitate that matter, subject to S. 87-B, Civil P. C. — *See* Constitution of India, Art. 362

(Dec) 423B

—**S. 11**—Res judicata—Party to the suit—Meaning—Predecessor in interest of a party is not a party to the suit nor a party interested

(Feb) 76A

—**S. 11** — General principles of res judicata—Applicability—General principles are wider than provisions of S. 11 and apply to cases not coming within four corners of the section—If, however, case falls within terms of S. 11 conditions of the section must be strictly complied with

(Feb) 76B

—**S. 11**—Writ petition — Constructive res judicata — Earlier writ petition considered on merits — Subsequent writ petition on grounds different from those put forward in earlier petition—Subject matter in two petitions same — Held, subsequent writ petition by same person is hit by doctrine of constructive res judicata

(May) 158B

—**Ss. 11 and 60 (1) (c)** — Decree against agriculturist on basis of mortgage of house executed by him — Execution petition for sale of hypotheca—Plea of exemption under S. 60 (1) (c) not raised — Judgment-debtor, agriculturist, is barred by principle of constructive res judicata from raising such objection in later petition filed for sale of house

(Oct) 355

—**S. 15** — Claim suit against execution of decree for costs — Court competent to en-

Civil P. C. (contd.)

ertain suit under S. 15 read with S. 6 can stay execution of decree — Decree whether passed by Supreme Court is immaterial—*See Civil P. C. (1908), S. 151* (July) 236A

—S. 38 — Applicability — *See Companies Act (1913), S. 3 (1)* (June) 207

—S. 39 — Applicability — *See Companies Act (1913), S. 3 (1)* (June) 207

—S. 41 — Scope and extent — Meaning of word 'certify' explained — Non-satisfaction of decree in transferee Court — Procedure necessary for transferee Court outlined (Aug) 263A

—S. 41—Decree transferred for execution — Transferee Court continues jurisdiction till non-satisfaction report and decree is returned to transferor Court — *See Limitation Act (1908), Art. 182* (Aug) 263B

—S. 46—Precept — Enables decree-holder to apply for execution within two months in Court to which precept is sent—*See Civil P. C. (1908), S. 48* (July) 250B (FB)

—S. 47 and O. 21, Rr. 10 and 17 — Whether decree could be executed — Held on facts that decree was executable (Mar) 92C

—S. 48 — Previous execution petition dismissed for default for non-payment of batta — Subsequent execution petition cannot be treated as revival of the previous one (July) 250A (FB)

—Ss. 48, 46 and O. 21, R. 53 — Limitation Act (1908), S. 15 — Limitation for execution of decree — Order of attachment of the decree by another Court under O. 21, R. 53 in execution — Period during which attachment subsisted cannot be excluded for purpose of limitation under S. 15, Limitation Act — Attachment under O. 21, R. 53 does not amount to an injunction or order of stay within meaning of S. 15, Limitation Act — Attachment does not amount to absolute stay—It is within power of holder of decree sought to be executed and holder of decree attached, to execute the decree by getting the notice withdrawn—Effect of attachment by precept under S. 46 indicated (July) 250B (FB)

—S. 48—Section is not controlled by S. 19 of Limitation Act (1908) (July) 250C (FB)

—S. 48, O. 7, R. 7 — Limitation Act (1908), S. 15 — Present execution petition asking for treating same as continuation of previous E. P. 3/46 — No prayer for revival of E. P. 26/40 which was closed by reason of A. P. (Andhra Area) Agriculturists Relief Act 4 of 1933 — In E. Ps. filed subsequently but before present E. P., no prayer made for revival of E. P. 26/40 — Oral application in present E. P., for revival of E. P. 26/40 cannot be entertained (July) 250D (FB)

Civil P. C. (contd.)

—S. 51 (e)—Decree cannot be executed in circumstances which give fresh cause of action to decree-holder — *See Civil P. C. (1908), S. 151* (Mar) 92E

—S. 60 (1), *Proviso (c)* — Scope and applicability — Prohibition contained in it is not absolute—Agriculturist can waive the benefit conferred on him—Agriculturist mortgaging his house must be deemed to have waived benefit of S. 60 (1) (c) — Prohibition contained in S. 60 (1) (c) is not based on public policy (Oct) 355A

—S. 60 (1) (c) — Scope — It is of general application to all decrees and not merely to decrees in which prior attachment is necessary. AIR 1924 All 328 (FB), Dissented from (Oct) 355B

—S. 60 (1) (c) — Exemption — Plea not raised — Bar of constructive res judicata — *See Civil P. C. (1908), S. 11* (Oct) 355C

—S. 60 (e)—Right of an insolvent to sue for contribution is not a right or property within this section — *See Provincial Insolvency Act (1920), S. 28 (5)* (Jan) 23

—S. 80—Suits against Railway Administration — Notice under S. 80 can be taken as a combined notice under S. 77 of the Railways Act (Nov) 386D

—S. 80—Suit against Railway administration — Copies of notice sent to General Manager of other railways through which goods passed — Notices are proper (Nov) 386E

—Ss. 86 and 87B—Scope and applicability — Government's consent to sue a former Ruler is no consent to sue his successor — The plaintiff has to obtain the consent afresh — The successor recognised by the President under Art. 366 (22) has, in his own independent right, the personal immunity from civil action (Mar) 106B

—S. 87-B—Validity — Provision not ultra vires Arts. 14 and 19 (1) (f) of the Constitution (Mar) 106A

—S. 87-B — Provision of the section not ultra vires Arts. 14 and 19 (1) (f) of the Constitution—*See Civil P. C. (1908), S. 86* (Mar) 106B

—S. 87-B — Certificate by Government of India recognising person as sole successor to all private properties held by late nawab — Jurisdiction of Courts not barred under Art. 363 of the Constitution to agitate that matter, subject to S. 87B, Civil P. C. — *See Constitution of India, Art. 362* (Dec) 423B

—Ss. 100 and 101 — Existence of negligence — Inference from the facts established can be interfered with in second appeal (Nov) 386B

Civil P. C. (contd.)

— *Ss. 100-101* — Evidence Act (1872), S. 5
 — Oral evidence adduced by parties in trial Court — Neither party taking exception to it — Objection to such evidence cannot be taken in second appeal (Aug) 300B

— *S. 105 (2) and O. 41, R. 23* — Scope and applicability — Principle that the appellate Court must take into account any changes in the law since the decision in appeal is given, is subject to the finality attached to the order of demand (Feb) 45A

— *S. 114* — Writ petition on civil side — Review — Provisions of Civil Procedure Code would apply — See Constitution of India, Art. 226 (Dec) 441A

— *S. 115* — Jurisdiction under — Cannot be used for correcting errors of fact or even errors of law unless related to jurisdiction (June) 196A

— *S. 115, O. 21, R. 60, O. 41, R. 5* — Execution of decree for costs — Proper remedy against — High Court can convert stay application into application for injunction (July) 236B

— *S. 115* — Order under O. 32, R. 15 — Revision maintainable in appropriate cases — See Civil P. C. (1908), O. 32, R. 15 (Oct) 362E

— *Ss. 151 and 51 (e)* — Scope — Under S. 51 (e) decree cannot be executed in circumstances which give fresh cause of action to decree-holder (Mar) 92E

— *S. 151* — Application by judgment-debtor for release of portion of property from attachment for private sale — Whether S. 151 can be invoked in such a case (Quaere) — See Civil P. C. (1908), O. 38, R. 5 (3) (June) 184

— *S. 151* — Order of remand not mentioning provision of law — Presumption is that it was passed under O. 41, R. 23 and not under S. 151: AIR 1956 Raj 43, AIR 1937 Sind 279, Dissented from — See Civil P. C. (1908), O. 41, R. 23 (July) 216A

— *S. 151* — Power under, cannot override express provisions of law — Power should be sparingly exercised (July) 216C

— *Ss. 151, 6, 15, O. 21, R. 60, O. 41, R. 5* — Claim-suit against execution of decree for costs — Court competent to entertain suit under S. 15 read with S. 6, can stay execution of decree — Decree whether passed by superior Court is immaterial (July) 236A

— *S. 152 and O. 45, R. 13* — Powers of High Court pending appeal to Supreme Court — Decree can be amended pending application for leave to appeal (Apr) 128

— *O. 1, R. 10* — Right of insolvent to sue for contribution — Vests in the official liquidator — Insolvent is incompetent to bring a suit on such right — Consequently question

Civil P. C. (contd.)

of adding the official liquidator as party does not arise — See Provincial Insolvency Act (1920), S. 28 (5) (Jan) 23

— *O. 1, R. 10* — Election petition — Non-compliance with S. 82 (b), Representation of the People Act — Provisions of O. 1, R. 10 cannot be invoked to avoid consequences of non-compliance — See Representation of the People Act (1951), S. 87 (Feb) 68D

— *O. 1, R. 10* — Applicability — Non-impleading of necessary party to election petition — Effect — Delay — Condonation of — See Representation of the People Act (1951), S. 86 (May) 151C

— *O. 1, R. 13* — Election petition — Failure to implead necessary parties — Plea of waiver under O. 1, R. 13 has to yield to mandatory provisions of S. 86 (1), Representation of the People Act — See Representation of the People Act (1951), S. 87 (Feb) 68D

— *O. 3, R. 4* — General power of attorney in Urdu — Power to compromise — Construction of power of attorney — See Contract Act (1872), S. 186 (July) 211

— *O. 5, R. 17* — Service of summons resisted by defendant — Process server driven away by him making service as contemplated by R. 17 impossible — It must be deemed to be sufficient service (Feb) 67

— *O. 6, R. 2 and O. 20, R. 4* — Variance between pleadings and proof — Evidence let in on specific issues — Foundation for decision on different issues — Parties having full knowledge of question — Rule of discarding evidence not applicable (Aug) 294A

— *O. 7, R. 7* — Relief not asked for nor prayed cannot be granted — See Civil P. C. (5 of 1908), S. 48 (July) 250D (FB)

— *O. 18, R. 3* — Burden of proof regarding certain issues lying on defendant — Plaintiff willing to adduce evidence by way of rebuttal — Option can be exercised before commencement of defendant's evidence (Mar) 82

— *O. 20, R. 4* — Issues on which parties go to trial and lead evidence — Should not be basis for decision on different issue — Parties however having full knowledge of question — Evidence should not be discarded — See Civil P. C. (1908), O. 6, R. 2 (Aug) 294A

— *O. 21, R. 10* — Executability of the decree — See Civil P. C. (1908), S. 47 (Mar) 92C

— *O. 21, R. 17* — Executability of the decree — Held on facts decree was not executable — See Civil P. C. (1908), S. 47 (Mar) 92C

— *O. 21, R. 17* — Attachment made final — Property not directed to be sold however

Civil P. C. (contd.)

cannot be released from attachment — See Civil P. C. (1908), O. 38, R. 5 (3) (June) 184

—O. 21, R. 19 — Specific Relief Act (1877), S. 28 — Decree for specific performance — Defendant to execute sale deed on plaintiff's depositing purchase money within fixed time — Defendant also to pay costs — Amount of costs larger than purchase money — Plaintiff seeking set off under R. 19 (b) of O. 21, Civil P. C. instead of depositing money within fixed time — Section 28 of Specific Relief Act (1877) not attracted (May) 146

—O. 21, R. 32 (5) — Scope and applicability — Sub-rule (5), applies only to mandatory injunctions — Sub-rule (1) applies to both mandatory and prohibitory injunctions. AIR 1919 Cal 674, Held no longer good law in view of A I R 1934 Cal 402 (Mar) 92D

—O. 21, R. 52, O. 40, R. 1 — Court appointing Receiver of rents and profits of immovable property — Order 21, R. 52 does not apply (May) 167B

—O. 21, R. 52 — Suit for setting aside attachment and sale in execution under R. 63 — Attachment not resulting in any injury to plaintiff — Sale being voidable attachment not set aside — Held on facts there was no breach of injunction order, so as to vitiate attachment — See Civil P. C. (1908), O. 21, R. 63 (May) 167C

—O. 21, R. 53 — Attachment under O. 21, R. 53 is not injunction — Neither it is a stay order within meaning of S. 15, Limitation Act — See Civil P. C. (1908), S. 48 (July) 250B (FB)

—O. 21, R. 55 — Attachment made final under O. 38, R. 6 — Attachment of property not directed to be sold cannot be lifted — See Civil P. C. (1908), O. 38, R. 5 (3) (June) 184

—O. 21, R. 60 — Claim suit against execution of decree for costs — Court competent to entertain suit under S. 15 read with S. 6 can stay execution of decree — Decree whether passed by superior Court is immaterial — See Civil P. C. (1908), S. 151 (July) 236A

—O. 21, R. 60 — Execution of decree for costs — Proper remedy against — High Court can convert stay application into application for injunction — See Civil P. C. (1908), S. 115 (July) 236B

—O. 21, R. 63 — Suit under — Scope of enquiry and relief (May) 167A

—O. 21, R. 63, O. 21, R. 52, O. 39, R. 1 — Suit under O. 21, R. 63 for setting aside attachment and sale in execution — Attachment not resulting in any injury to plaintiff — Sale being voidable attachment not set aside — Held on facts that there was no breach of injunction order, so as to vitiate attachment (May) 167C

Civil P. C. (contd.)

—O. 21, Rr. 63, 97, 103, 98, 99 and 101 — Distinction between R. 63 and R. 103 — Disposal of a petition without enquiry into the question involved does not fall under R. 98 or 99 — Fresh application under R. 97 will not be barred. AIR 1954 Mad 203, Dissented from (June) 192

—O. 21, R. 64 — Attachment made final under R. 6 of O. 38 — Attachment of property not directed to be sold could not be lifted — See Civil P. C. (1908), O. 38, R. 5 (3) (June) 184

—O. 21, R. 72 — Order under — Court need not give notice to judgment-debtor (June) 196B

—O. 21, R. 72 — Order under — Is only ministerial or administrative order (June) 196C

—O. 21, R. 83 — Rule permits private sale withdrawing property attached from the effect of R. 54 — That is for the benefit of the decree-holder and not of judgment-debtor — See Civil P. C. (1908), O. 38, R. 5 (3) (June) 184

—O. 21, R. 90 — Reduction of upset price, during conduct of sale without notice to judgment-debtor — Constitutes material irregularity within meaning of O. 21, R. 90 (June) 196E

—O. 21, R. 97 — Fresh application under R. 97 will not be barred when previous application was disposed of without enquiry into question involved. AIR 1954 Mad 203, Dissented from — See Civil P. C. (1908), O. 21, R. 63 (June) 192

—O. 21, R. 98 — Disposal of a petition without enquiry into question involved does not fall under R. 98 or R. 99 — See Civil P. C. (1908), O. 21, R. 63 (June) 192

—O. 21, R. 99 — Disposal of a petition without enquiry into question involved does not fall under R. 98 or 99 — See Civil P. C. (1908), O. 21, R. 63 (June) 192

—O. 21, R. 101 — Disposal of a petition without inquiry into question involved does not fall under R. 98 or 99 — See Civil P. C. (1908), O. 21, R. 63 (June) 192

—O. 21, R. 103 — Distinction between Rr. 63 and 103 — See Civil P. C. (1908), O. 21, R. 63 (June) 192

—O. 22 (General) and O. 22, R. 12 — Scope and applicability — Principle of abatement of decree does not apply to execution proceedings (Mar) 92A

—O. 22, R. 12 — Abatement — Applicability of principle to execution proceedings — See Civil P. C. (1908), O. 22 (General) (Mar) 92A

—O. 23, R. 3 — General power of attorney in Urdu — Power to compromise — Construction of power of attorney — See Contract Act (1872), S. 186 (July) 211

Civil P. C. (contd.)

—O. 32, Rr. 1 to 15 — Proceedings by or against person of unsound mind — Correct procedure to be followed is one that is followed in case of minor (Oct) 362A

—O. 32, Rr. 1 to 15 — R. 15 postulates inquiry if plaintiff's unsoundness of mind is disputed (Oct) 362B

—O. 32, Rr. 1 and 15 — Applications under — Procedure for disposal — Explained (Oct) 362C

—O. 32, R. 15 — Application under — Procedure for disposal explained—See Civil P. C. (1908), O. 32, R. 1 (Oct) 362C

—O. 32, R. 15—Order passed under—Scope limited to give proper representation to plaintiff (Oct) 362D

—O. 32, R. 15 and S. 115 — Order under R. 15—High Court can in appropriate cases revise such order under S. 115 — Defendant, however, not precluded from raising objection in appeal, if necessary (Oct) 362E

—O. 33, R. 1—Suit on pro-note by endorsee for collection — Endorsee cannot apply for permission to sue in forma pauperis (July) 215

—O. 33, R. 9—Petition to dispauper plaintiff — Can be allowed when leave obtained by fraud (May) 145

—O. 38, Rr. 5 (3), 6 and 9 and O. 21, Rr. 17, 55, 64 and 83 and S. 151—Conditional attachment under R. 5 (3) made final under R. 6 — Attachment not withdrawn under R. 9—Application by judgment-debtor to release portion of property for private sale to discharge debts of third parties — Not permissible under O. 38 or O. 21 — Whether S. 151 can be invoked in such case (Quaere) (June) 184

—O. 38, R. 6 — Application by judgment-debtor to release portion of property for private sale to discharge debts of third parties — Not permissible under O. 38 or O. 21—See Civil P. C. (1908), O. 38, R. 5 (3) (June) 184

—O. 38, R. 9 — Conditional attachment under R. 5 (3) made final under R. 6 — Attachment not withdrawn under R. 9—Application by J. D. to release a portion of property for private sale—Is not permissible — See Civil P. C. (1908), O. 38, R. 5 (3) (June) 184

—O. 39, R. 1 — Held on facts that there was no breach of injunction order so as to vitiate attachment — See Civil P. C. (1908), O. 21, R. 63 (May) 167C

—O. 39, R. 1 — Scope and applicability—Language of rule is wide and includes issue of a mandatory injunction — Conditions necessary for issue of mandatory injunction

Civil P. C. (contd.)

explained — Discretion of Court how should be used — AIR 1914 Bom 42, Dissented from (Oct) 363

—O. 39, R. 7 — Order for production of account books required as evidence for obtaining permanent injunction — Whether order is valid or irregular, unless it is vacated, it has got to be obeyed—See Contempt of Courts Act (1952), S. 3 (Feb) 47A

—O. 39, Rr. 7, 6(2)—Scope—Account books required as piece of evidence by plaintiff for establishing his allegations to obtain order of permanent injunction—R. 7 confers ample powers on Court to seize them — Provisions of R. 7 and R. 6 (2), are wide enough to authorise any party to suit to apply for and obtain orders to seize account books and to have them into Court as piece of evidence if plaintiff or defendant cares to rely on them (Feb) 47B

—O. 40, R. 1—Receiver of rents and profits appointed by Court — O. 21, R. 52 does not apply—See Civil P. C. (1908), O. 21, R. 52 (May) 167B

—O. 41, R. 5 — Claim suit against execution of decree for costs — Court competent to entertain suit under S. 15 read with S. 6 can stay execution of decree — Decree, whether passed by superior Court is immaterial — See Civil P. C. (1908), S. 151 (July) 236A

—O. 41, R. 5 — Execution of decree for costs — Proper remedy against—High Court can convert stay application into application for injunction—See Civil P. C. (1908), S. 115 (July) 236B

—O. 41, R. 23 — Principle that appellate Court must take into any changes in the law since the decision in appeal is given, is subject to the finality attached to the order of remand — See Civil P. C. (1908), S. 105 (2) (Feb) 45A

—O. 41, R. 23 (as amended by Madras Amendment of 1930) and S. 151 — Order of remand by lower appellate Court — Non-mention of provision under which it was passed — Presumption is that is passed under O. 41, R. 23, and not under S. 151 — Objection as to maintainability of appeal against such order — Respondent must rebut presumption — Omission regarding refund of court-fee in order of remand—Not conclusive. AIR 1956 Raj 43 and AIR 1937 Sind 279, Dissented, from (July) 216A

—O. 41, Rr. 23 and 27 (as amended by Madras Amendment of 1930) — Provision of R. 23 is mandatory — Power of remand — Not to be exercised to give undue advantage to aggrieved party to fill in lacuna in evidence on record (July) 216B

Civil P. C. (contd.)

—O. 41, R. 27 (as amended by Madras Amendment of 1930) — Power of remand — Not to be exercised to give undue advantage to aggrieved party to fill in lacuna in evidence on record — See Civil P. C. (1908) (as amended by Madras Amendment of 1930), O. 41, R. 23 (July) 216B

—O. 45, R. 13—Appeal to Supreme Court — Power of High Court pending appeal — See Civil P. C. (1908), S. 152 (Apr) 128

—O. 47, R. 1—Writ petition on civil side — Review—Provisions of Civil P. C. would apply—See Constitution of India, Art. 226 (Dec) 441A

—O. 47, R. 1 — Order under Art. 226 of Constitution passed following Supreme Court decision — Decision relied on reversed by Supreme Court before passing order—Latter decision not fully reported by that date but was only short noted in I.T.R.—Later decision not brought to notice of Court — Held sufficient ground for reviewing the order— See Constitution of India, Art. 226 (Dec) 441B

Civil Service Regulations

See under Civil Services.

CIVIL SERVICES

—Andhra General Service Class IX Special Rules—Deletion of R. 8 in 1965 — Validity — See Constitution of India, Art. 309 Proviso (Mar) 109

— Andhra Pradesh State Higher Judicial Service Special Rules, R. 4 (as amended on 12-5-1966) — Validity of — See Constitution of India, Art. 14 (June) 195A

—Rr. 4 (as amended on 12-5-1966) and 26 —Petitioner a Deputy Tehsildar, who had completed five years services as upper division clerk, appointed in 1966 as temporary Judicial Second Class Magistrate under Andhra Subordinate Magisterial Service Rules—Reverted to parent department after amendment of R. 4—Petitioner not belonging to any of the categories mentioned in R. 26 —Petitioner held not excluded under R. 26 from operation of A. P. State Judicial Service Rules as they stood originally or as amended (June) 195B

—R. 26—Petitioner not belonging to any of the categories mentioned in R. 26 — Not excluded from operation of A. P. State Judicial Service Rules both original or as amended — See Civil Services — A. P. State Higher Judicial Service Special Rules, R. 4 (as amended on 12-5-1966) (June) 195B

—Civil Service Regulations, Art. 487-B—Benefit under, claim for—Limitation—Cause of action arises only after termination of de-

Civil Services — Civil Service Regulations

(contd.)

partmental proceedings—See Limitation Act (1908), Art. 120 (July) 221

—General Rules for the State and Subordinate Services Rules, R. 22 — Governor or any person nominated by him has no power to make rules with retrospective effect — See Constitution of India, Art. 309 (Mar) 109

—Hyderabad State and Subordinate Services Rules, R. 37—Rules regarding promotions—Effect of (Apr) 118B

Railway Establishment Code, Rr. 1702, 1703

—Special provisions applicable to ex-B. N. Railway Company employees — General provisions in the Code do not apply till the special provisions are repealed or abrogated — Enquiry against petitioner — Charges framed by District Mechanical Engineer and enquiry ordered by him — Held, that the District Mechanical Engineer was not the Head of the Department and hence the proceedings were not valid (May) 155A

—R. 1702 — First notice mentioning proposed punishment—Prejudice (May) 155B

—R. 1703 — Enquiry against petitioner — Charges framed by District Mechanical Engineer — Validity of proceedings — See Railway Establishment Code Rules, R. 1702 (May) 155A

Companies Act (7 of 1913), Ss. 3 (1), 164 and 199 to 201—Liquidation proceedings before High Court of Madras—Order calling upon judgment-debtor to pay call money—Order sent to High Court of Andhra Pradesh for enforcement — District Court in Andhra Pradesh has jurisdiction to execute such order — S. 164 has no application to such a case (June) 207

—S. 164 — Applicability — Execution of order for payment of call money — Order passed by one High Court sent to another High Court for execution — Section has no application to such a case — See Companies Act (1913), S. 3 (1) (June) 207

—Ss. 199 to 201—Liquidation proceedings before Madras High Court — Order for payment of call money against judgment-debtor — Order sent to Andhra High Court for execution—Judgment-debtor in Andhra Pradesh has jurisdiction to execute such order — See Companies Act (1913), S. 3 (1) (June) 207

Companies Act (1 of 1956), S. 559 (1)—Application under—Income-tax Officer can maintain application as creditor (Apr) 140A

Companies Act (1956) (contd.)

—S. 559 (1)—Application should be made within two years of date of dissolution—Court can pass order at any time thereafter (Apr) 140B

—S. 559 (1) — Setting aside dissolution — Fraud can be a ground—But fraud must be strictly proved (Apr) 140C

Constitution of India, Pre., Art. 31—Acquisition of land to provide amenities and conveniences to pilgrims visiting temple — Compensation paid by Government—Acquisition cannot be challenged as violative of concept of secular State (July) 231C

—Art. 14 — Rules for selection of candidates for admission to integrated M. B. B. S. course in Medical Colleges in Telangana appended to G. O. Ms. 1135 Health dated 16-6-1966 — Rule 6 (a) (ii) not invalid (Feb) 35A

—Art. 14 — Rules for selection of candidates for admission to integrated M. B. B. S. Course in Medical Colleges in Telangana appended to G. O. Ms. 1135, Health dated 16-6-1966 — Rule 6 (a) (i) and corresponding portion of R. 17 (viii) invalid — Unrestricted reservation of seats for sons and daughters of Government Officers serving in Hyderabad and Secunderabad discriminatory and invalid—Proviso under R. 6 (a) (ii) does not govern R. 6 (a) (i) (Feb) 35B

—Art. 14 — S. 86B, Civil P. C. not ultra vires the article — See Civil P. C. (1908), S. 87B (Mar) 106A

—Art. 14—R. 210 framed under S. 69 (bb) (Andhra) of Registration Act is constitutionally valid — See Registration Act (1908), S. 69 (bb) (Andhra) (Apr) 134A

—Art. 14 — R. 199 (4) framed under S. 69 (bb) (Andhra) of Registration Act (1908) does not impose unreasonable restrictions on the document writers already in the field—See Registration Act (1908), S. 69 (bb) (Andhra) (Apr) 134B

—Arts. 14 and 16 — Andhra Pradesh State Higher Judicial Service Special Rules, R. 4 (as amended on 12-5-1966) — Validity of — Deletion of category of upper division clerks from categories of persons eligible for appointment as Judicial Second Class Magistrates is not by itself unreasonable — Fact that persons who were appointed temporarily under rules then existing have to be reverted as result of amendment of rules cannot make the rule itself unreasonable as the persons reverted will not suffer any detriment in their department — Their service on deputation in other departments will be treated as service in parent department (June) 195A

Constitution of India (contd.)

—Arts. 14 and 16 (1)—Equality of opportunity — Electricity Board filling only 50 per cent of permanent posts of accountants by direct recruitment and remaining 50 per cent posts by promoting persons already working, taking into account their merit, qualifications and other conditions.— Held provisions of Arts. 14 and 16 (1) were not violated. W. P. No. 754 of 1966, D/- 8-9-1967 (A.P.) Reversed (Sep) 328D

—Art. 14 — Essential Commodities Act (1955), Ss. 3, 5—S. 5 is not ultra vires Art. 14 (Nov) 414A

—Art. 16 — Rules regarding promotion — Effect of — See Civil Services — Hyderabad State and Subordinate Services Rules, R. 37 (Apr) 118B

—Art. 16 — A. P. Higher Judicial Service Special Rules, R. 4 (as amended on 12-5-1966) — Deletion of category of upper division clerks from categories of persons eligible for appointment as Judicial Second Class Magistrates is not by itself unreasonable — See Constitution of India, Art. 14 (June) 195A

—Art. 16 (1) — Electricity Board filling half the vacancies by direct recruitment and half by promotions — Neither Art. 14 nor Art. 16 violated — See Constitution of India, Art. 14 (Sep) 328D

—Art. 19—R. 210 framed under S. 69 (bb) (Andhra), of Registration Act (1908), is constitutionally valid — See Registration Act (1908), S. 69 (bb) (Andhra) (Apr) 134A

—Art. 19 — R. 199 (4) framed under S. 69 (bb) (Andhra) of Registration Act (1908), does not impose unreasonable restrictions on document writers who are already in the field—See Registration Act (1908), S. 69 (bb) (Andhra) (Apr) 134B

—Art. 19 (1) (f) — S. 86B, Civil P. C. not ultra vires the article—See Civil P. C. (1908), S. 87B (Mar) 106A

—Art. 19 (1) (f) (as amended in 1955)—S. 12 of the Displaced Persons (Compensation and Rehabilitation) Act 1954 is not hit by Art. 19 (1) (f) — See Displaced Persons (Compensation and Rehabilitation) Act (1954), S. 12 (May) 158E

—Art. 31—Displaced Persons (Compensation and Rehabilitation) Act (1954), whether violates Art. 31 (2) — See Displaced Persons (Compensation and Rehabilitation) Act (1954), S. 12 (May) 158D

—Art. 31 — Acquisition for purposes of temple—Concept of secular State, if violated — See Constitution of India, Preamble (July) 231C

—Arts. 31 and 226—Natural justice — Assignment of lands under licence to petitioner company for factory — Utilisation of

Constitution of India (contd.)

lands by company regulated by covenants—Resumption of major portion of lands unutilised—No hearing given—Held principles of natural justice were violated—Art. 31 (1) did not apply (Oct) 374

—*Art. 31 (2) (as amended in 1955)*—Displaced Persons (Compensation and Rehabilitation) Act, 1954—Act if violates Art. 31 (2)—*See* Displaced Persons (Compensation and Rehabilitation) Act (1954), S. 12 (May) 158E

—*Art. 133 (1) (b) and (c)*—High Court quashing order of suspension of R from office of Mahant of S Mutt and directing Government to restore to R possession of Mutt and its properties—Properties worth several lakhs of rupees—Petition for leave to appeal against order—Held, petition did not fall under Art. 133 (1) (c) but under Art. 133 (1) (b) as it involved indirectly claim or question respecting property of Mutt which was worth several lakhs of rupees (Jan) 9

—*Art. 215*—Order for production of account book required as evidence for obtaining permanent injunction—Parties to the suit and third parties also who have notice of the order will be liable for contempt for disobedience of such orders or for obstructing execution of the order—*See* Contempt of Courts Act (1952), S. 83 (Feb) 47A

—*Art. 225*—Jurisdiction conferred on Andhra Pradesh High Court by Letters Patent, Cl. 13—Different from writ jurisdiction—*See* Limitation Act (1908), Art. 182 (Oct) 381

—*Art. 226*—Natural justice—Orders passed by Government and strictly called judicial or quasi-judicial—Even then before order in favour of party is set aside, he should be given chance to make his representation (Jan) 22

—*Art. 226*—Quo Warranto, writ of—Writ alleging that duly elected member was subsequently disqualified from holding office under S. 20, Andhra Pradesh Gram Panchayats Act (35 of 1959)—Proper remedy is to move under S. 22—Writ of quo warranto is most inappropriate (Jan) 22

—*Art. 226*—Dismissal of writ—Temporary injunction for facilitating institution of suit cannot be issued (Feb) 39B

—*Art. 226*—Essential Commodities Act (1955), S. 7—Andhra Pradesh Rice Procurement (Levy) Order (1964), Cl. 3—Writ of prohibition—When issues—Notice by Grain Purchasing Officer to licensed rice miller to sell rice—Miller defaulting to sell—Miller prosecuted for default—Pleas e.g., non-liability to sell, because of alleged defects

Constitution of India (contd.)

in requisitioning or omission to name the person to whom rice was to be delivered, could be raised and tried at trial—Writ petition not maintainable on such grounds (Feb) 59A

—*Art. 226*—Miller obtaining licence after Andhra Pradesh Rice Procurement (Levy) Order was rescinded—Failure to comply with notice under Order—Prosecution for contravention of Order—Writ of prohibition lies—*See* Andhra Pradesh Rice Procurement (Levy) Order (1964), Cl. 3 (Feb) 59B

—*Art. 226*—Threat of reversion in service—Interference under—Permissibility—*See* Constitution of India, Art. 311 (Apr) 118A

—*Art. 226*—Natural justice—Reasonable opportunity—Even administrative tribunal ought to give reasonable opportunity—This is not the requirement of its acting judicially but of fairness (June) 183

—*Art. 226*—Writ application by a class of persons as being discriminated with reference to another class—It is not necessary to make every person of the other class a party (June) 204

—*Art. 226*—Mandamus—Writ of—Who can apply—Petition for issue of writ of mandamus directing Electricity Board not to fill posts of Accountants by direct recruitment and to promote employees who are deputed from State Government for working in Board—Petitioners having only chance for being promoted as Accountants in due course of time which is not fundamental right—Petitioners having no vested legal rights on date of filing petition for being appointed as Accountants—Held writ could not be issued (Sep) 328C

—*Art. 226*—Parties to petition—Petition for issue of writ of mandamus directing Electricity Board not to fill posts of Accountants by direct recruitment and to promote employees who are deputed from State Government for working in Board—Successful candidates recruited to posts of Accountants not joined as parties to petition—Held petition must fail (Sep) 328E

—*Art. 226*—Natural justice—Assignment of land to a company—Utilisation of land as per covenant—Land unused resumed without hearing assignee—Art. 31 (1) not applicable—Breach of natural justice—*See* Constitution of India, Art. 31 (Oct) 374

—*Art. 226*—Writ jurisdiction is distinct and separate from extraordinary jurisdiction given under Letters Patent, Cl. 13 of Andhra Pradesh—*See* Limitation Act (1908), Art. 182 (Oct) 381

—*Art. 226*—Agreement between Ruler and Government of India—Whether succession

Constitution of India (contd.)

to personal or private property was made subject-matter of guarantee or assurance—Ascertainment—Court can look into terms of agreement—*See* Constitution of India, Art. 363 (Dec) 423A

—*Art. 226*—Writ petition on civil side—Review—Provisions of Civil P. C. would apply—High Court is governed by provisions of Civil P. C. and has jurisdiction to review its order under Art. 226 (Dec) 441A

—*Art. 226*—Civil P. C. (1908), O. 47, R. 1—Review—Order under Art. 226 passed on 1-2-1968 following Supreme Court decision—Decision relied on reversed by Supreme Court on 25-10-1967—Latter decision not fully reported by 1-2-1968 but was only short noted in I. T. R.—Latter decision not brought to notice of Court—Held there was error apparent on face of record in order D/- 1-2-1968, justifying review of the order—Even if it was counsel's mistake in not placing latest decision before Court, that affords sufficient ground for reviewing the order (Dec) 441B

—*Art. 227*—Supervisory jurisdiction of High Court—Scope and exercise of—Case before Tenancy Tribunal—Finding of fact based on appreciation of evidence—No interference (Jan) 18

—*Art. 252 (1)*—When Parliament can legislate on "agricultural land"—*See* Wealth Tax Act (1957), S. 2 (e) (i) (Oct) 345B (FB)

—*Art. 309, Proviso*—Power under, whether sovereign legislative power—Special Rules for Andhra General Service Class IX R. 8—General Rules for the State and Subordinate Services Rules, R. 22—Deletion of R. 8 of Special Rules in 1965 with retrospective effect from 1-1-1961—Validity—Governor or any person nominated by him has no power to make rules with retrospective effect under Art. 309—Observations of Dwivedi, J., in AIR 1962 All 328, Dissented from (Mar) 109

—*Art. 309*—Rules regarding promotions—Effect of—*See* Hyderabad State and Subordinate Services Rules, R. 37 (Apr) 118B

—*Art. 309*—Scope (Apr) 118D

—*Arts. 311, 226*—Threat of reversion in service—Interference under Art. 226 when permissible (April) 118A

—*Art. 311*—Misconduct—Domestic inquiry—Indication of proposed punishment in the memo of charges—Amounts to gross violation of procedure and offends Art. 311 (2) (July) 234

—*Art. 311*—Scope and applicability—A.P. State Electricity Board constituted under S. 5 of Electricity (Supply) Act (1948) is not

Constitution of India (contd.)

part and parcel of State Government—It is an autonomous body constituted and functioning under provisions of said Act—Article 311 does not apply to Board (Sep) 328B

—*Art. 311 (2)*—Demotion—When amounts to penalty (Apr) 118C

—*Art. 329*—Allotment of reserved seats after compliance with S. 9—Decision of Commission cannot be challenged in Court of law unless arbitrary—*See* Delimitation Commission Act (1962), S. 9 (Jan) 1

—*Arts. 362, 366 (22), 363*—Certificate recognising person as sole successor to all private properties held by late Nawab—Government of India has no jurisdiction to issue such certificate—Recognition of successor—What is—Rights in respect of private property will be governed by ordinary law of land including law of inheritance—Jurisdiction of Courts not barred under Art. 363 to agitate that matter, subject to S. 87-B, Civil P. C.—(Civil P. C. (1908), Ss. 87-B, 9) (Dec) 423B

—*Arts. 363, 226*—"Dispute arising out of any 'provision of treaty or other similar instrument'"—Agreement between Ruler and Government of India—Whether succession to personal or private property was made subject-matter of the guarantee or assurance—Ascertainment—Court can look into terms of the agreement—Words "personal rights" in Art. IV of agreement do not include private properties of Rulers (Dec) 423A

—*Art. 363*—Recognition of successor—Certificate recognising person as sole successor to all private properties held by late Nawab—Jurisdiction of Courts not barred under Art. 363 to agitate that matter subject to S. 87B, Civil P. C.—*See* Constitution of India, Art. 362 (Dec) 423B

—*Art. 366 (22)*—Consent to sue a former Ruler is no consent to sue his successor—Successor recognised under Art. 366 (22) has, in his own independent right, the personal immunity from civil action—*See* Civil P. C. (1908), S. 86 (Mar) 106B

—*Art. 366 (22)*—Recognition of successor—What is—*See* Constitution of India, Art. 362 (Dec) 423B

—*Sch. 7, List 1, Entry 86*—Words "agricultural land" should be liberally interpreted—*See* Wealth Tax Act (1957), S. 2 (e) (i) (Oct) 345A (FB)

—*Sch. 7, List 3, Entry No. 6*—State Legislature is competent to amend Registration Act, S. 69 (as inserted by Andhra Pradesh) in view of entry No. 6 of Concurrent list. *See* Registration Act (1908), S. 69 (as inserted by Andhra Pradesh Amendment Act 5 of 1960) (Apr) 134D

Contempt of Courts Act (32 of 1952), S. 3— Civil P. C. (1908), O. 39, R. 7 — Account books required as piece of evidence by plaintiff to obtain order of permanent injunction—Court issuing order under O. 39, R. 7 — Parties to the suit and who have notice of same will be liable for contempt of disobedience or for obstructing execution of the order — Whether order is valid or irregular unless it is vacated, it has got to be obeyed (Feb) 47A

Contract Act (9 of 1872), S. 10 — Forward contract — Ready delivery contract — Contract held not ready delivery contract and was hit by S. 15 read with S. 2 (c)—*See* Forward Contracts (Regulation) Act (1952), S. 15 (Mar) 88

—S. 72—Forward contract — Ready delivery contract—What is—*See* Forward Contracts (Regulation) Act (1952), S. 15 (Mar) 88

—Ss. 126, 127 — Nature and object of suretyship — Consideration for—Necessity of (Aug) 294B

—S. 127—Nature and object of suretyship — Consideration for — *See* Contract Act (1872), S. 126 (Aug) 294B

—Ss. 151 and 152—Carriage by railway—Suit for damages — Onus of proof that all necessary precautions were taken, is on Railways (Nov) 386A

—S. 152 — Carriage by railway—Suit for damages—Onus of proof—*See* Contract Act (1872), S. 151 (Nov) 386A

—Ss. 186, 188—General power of attorney in Urdu — Use of word “sulah” does not include reference to arbitration—Expression means only “compromise”—Difference between compromise and reference to arbitration explained — AIR 1947 Nag 17, **Not foll.** (July) 211

—S. 188 — General power of attorney in Urdu—Power to compromise—Construction of power of attorney — *See* Contract Act (1872), S. 186 (July) 211

COURT-FEES AND SUITS VALUATIONS

—**Andhra Pradesh Court Fees and Suits Valuation Act (7 of 1956), Ss. 48 and 49—**No court-fee payable on cross-objection for interest claimed under S. 34 of Land Acquisition Act (1894) — AIR 1964 Andh Pra 216, **Overruled** (Feb) 55A (FB)

—S. 48—Order referred to in S. 48 is the order against which an appeal is being filed —*See* Land Acquisition Act (1894), S. 23 (Feb) 55B (FB)

—S. 49—No court-fee is payable on cross-objection for interest under S. 34 of Land Acquisition Act, 1894. A I R 1964 Andh Pra 216, **Overruled** — *See* Court Fees and Suits

Court-fees and Suits Valuations — Andhra Pradesh Court-fees and Suits Valuation Act. (contd.)

Valuations — Andhra Pradesh Court-fees and Suits Valuation Act (1956), S. 49

(Feb) 55A (FB)

Criminal Procedure Code (5 of 1898), Ss. 4 (m), 167, 173, 195 (1) (b) — Penal Code, S. 211 — Judicial proceedings in Court—Proceedings by Magistrate under Ss. 167 and 173 are judicial — Hence cognizance of an offence under S. 211, Penal Code, in relation to such proceedings on private complaint is barred under S. 195 (1) (b) (Aug) 281B

—S. 35—Offence falling under Defence of India Rules as also under Customs Act—Conviction should be under D. I. Rules which is special provision — *See* Defence of India Rules (1962), R. 126-P (Aug) 278C

—S. 107 — Suit for malicious prosecution in respect of information given under this section—Requisites — *See* Tort—Malicious Prosecution (Jan) 29A

—S. 145—Possession of part of joint family property by one member — Not proper ground to initiate proceedings under S. 145 (May) 150

—Ss. 156 and 537 (2)—Defect in initiation of complaint—Curability (Feb) 41C

—S. 156 (2)—Complaint under S. 32 (1), Drugs Act, by Inspector on basis of investigation conducted by unauthorised Inspector — Effect on cognisance—*See* Drugs and Cosmetics Act (1940), S. 21 (Mar) 99B

—S. 156 (2)—Irregularity in investigation — Objection as to — Must be raised at an early stage of trial—*See* Drugs and Cosmetics Act (1940), S. 22 (Mar) 99D

—S. 162—Penal Code (1860), S. 161—Prevention of Corruption Act (1947), Ss. 5 (1) (d), 5 (2) and 4 (1) — Provisions of S. 162, Criminal P. C. are attracted only when statement is made during course of investigation but question when investigation actually commenced is one of fact—Prosecution for offence under S. 161, Penal Code and S. 5 (1) (d) read with S. 5 (2) of Prevention of Corruption Act — Explanatory statement, if any, made by accused to police after acceptance of money by accused from trap witness is hit by S. 162 and trial Judge should not allow any question with regard to furnishing or non-furnishing of explanation by accused to police and much less advert to it for purpose of arriving at inference adverse to accused—Presumption under S. 4 (1) of Prevention of Corruption Act available to Court trying offences under Ss. 161, 165 and 165-A of Penal Code is rebuttable and has nothing to do with and cannot be invoked at any stage of investi-

Criminal P. C. (contd.)

gation—Provisions of S. 162, Criminal P. C. do not require different interpretation with respect to provisions of Prevention of Corruption Act (Aug) 271A

—S. 162 — Penal Code (1860), S. 161—Offence under S. 161 is complete not only when illegal gratification is attempted by accused but also when there is attempt to obtain such gratification—Therefore, statement made to police, even prior to acceptance of such gratification by accused, if it falls under category of statement made in course of investigation will be hit by S. 162, Criminal P. C. AIR 1963 Guj 145, Dissent. from — When investigation commenced is, however, a question of fact (Aug) 271B

—S. 164 — Statement of witness under S. 164 if evidence in judicial proceedings (Quaere) (Nov) 415B

—S. 167—Judicial proceedings in Court—Proceedings by Magistrate under Ss. 167 and 173 are judicial—See Criminal P. C. (1898), S. 4 (m) (Aug) 281B

—S. 173 — See Criminal P. C. (1898), Section 207A (June) 206

—S. 173—Judicial proceedings in Court—Proceedings by Magistrate under Ss. 167 and 173 are judicial—See Criminal P. C. (1898), S. 4 (m) (Aug) 281B

—Ss. 190 and 195 (1) (b)—“Cognizance”—Meaning of — Cognizance indicates point of time when Court first takes notice of offence — Taking cognizance does not mean starting of judicial proceedings — Section 195 (1) (b) restricts powers of Magistrate taking cognizance (Aug) 281A

—S. 190 (1) — Complaint under S. 32 (1), Drugs Act — Investigation conducted by unauthorised Inspector — Power of Court to take cognizance remain unaffected — See Drugs and Cosmetics Act (1940), S. 21 (Mar) 99B

—S. 195 (1) (a)—“Public servant concerned” — Superintendent in charge of Central Telegraph Office — Whoever happens to occupy that post at the time of filing complaint is the public servant concerned and can file complaint for offences under Ss. 182, 417 and 471, Penal Code (Feb) 41A

—S. 195 (1) (b)—Section 195 (1) (b) restricts powers of Magistrate taking cognizance—See Criminal P. C. (1898), S. 190 (Aug) 281A

—S. 195 (1) (b) — Proceedings by Magistrate under Ss. 167 and 173 are judicial — Hence cognizance of an offence under S. 211, Penal Code in relation to such proceedings

Criminal P. C. (contd.)

on private complaint is barred under S. 195 (1) (b)—See Criminal P. C. (1898), S. 4 (m) (Aug) 281B

—Ss. 200 (aa), 251 (b) and 251-A — Complaint filed by Superintendent Central Telegraph Office in his official capacity — He is public servant and need not be examined on oath before taking case on file — His successors examined as witnesses in case — It cannot be said that there was no evidence connected with complaint — Proceedings having been initiated by some one other than Police Officer proper procedure for trial was under S. 251 (b) and not under S. 251-A—Fact that Police had made investigation was not of any importance and could not affect validity of proceedings even if Police had investigated without proper authority under S. 155 (2) (Feb) 41B

—Ss. 207-A, 208, 233, 173 — Preliminary charge-sheet filed by police against nine persons — At time of final charge-sheet names of first four accused deleted with addition of three more persons instead and one of accused in provisional charge-sheet made approver — Private complaint filed complaining against deletion of names of main accused and for giving different complexion to entire case — Meanwhile original case committed to Court of Session — Held, Sessions trial should be stayed for short period pending completion of enquiry by Magistrate that might proceed only against first four accused—In case private complaint resulted in committal, Sessions Judge would proceed with trial by clubbing it with case pending before him (June) 206

—S. 208 — See Criminal P. C. (1898), S. 207A (June) 206

—S. 233—See Criminal P. C. (1898), S. 207A (June) 206

—S. 247—Word “day” does not mean whole working day—Absence of complainant at time when case is called on—Court is justified in acquitting accused without waiting for whole day to see whether complainant appears (July) 222A

—Ss. 247, 417 (3), 423 — Acquittal of accused under S. 247—Appeal under S. 417 —High Court can decide sufficiency of cause of non-appearance of complainant — On satisfaction it can set aside the acquittal (July) 222B

—S. 251-A—Complaint filed by Superintendent C. T. O. in his official capacity—Procedure for trial is one prescribed under S. 251 (b) and not under S. 251-A — See Criminal P. C. (1898), S. 200 (aa) (Feb) 41B

Criminal P. C. (contd.)

- S. 251 (b) — Complaint filed by Superintendent C. T. O. in his official capacity— Proper procedure for trial was under Section 251 (b) and not under S. 251-A — See Criminal P. C. (1898), S. 200 (aa) (Feb) 41B
- S. 342 — Accused is not bound to explain even if it is an incriminating circumstance appearing against him, but if no satisfactory explanation is forthcoming from accused adverse inference can certainly be drawn against him (Aug) 291
- S. 367 — Burden of proving criminal case lies on prosecution — Prosecution case resting on infirm ground— Defence evidence, not characterised as false, must be preferred (Aug) 271C
- S. 417 — Acquittal under S. 247, setting aside of in appeal— On satisfaction of cause of non-appearance of complainant, High Court can set aside acquittal— See Criminal P. C. (1898), S. 247 (July) 222B
- S. 423 — Acquittal under S. 247, setting aside of, in appeal — On satisfaction of cause of non-appearance of complainant, High Court can set aside acquittal — See Criminal P. C. (1898), S. 247 (July) 222B
- S. 479A — Magistrate lodging complaint must say which of the two contradictory statements is false (Nov) 415A
- S. 517 — Penal Code (1860), S. 420 — Offence under S. 420 in respect of lorry — Ownership of lorry in dispute — Held, Court could direct parties to get dispute solved by Civil Court— Same could not be decided by Criminal Court (Feb) 54
- S. 537 — Complaint under S. 32 (1), Drugs Act — Investigation by unauthorised Inspector— Cognizance by Court — Trial is not vitiated— S. 537, is attracted— See Drugs and Cosmetics Act (1940), S. 21 (Mar) 99B
- S. 537 (2) — Defect in initiation of complaint can be cured under S. 537 (2) — See Criminal P. C. (1898), S. 156 (Feb) 41C
- S. 561-A — Inherent power of High Court under — Cannot be exercised in respect of executive or administrative orders (Dec) 444
- Customs Act (52 of 1962), S. 135 (b) (ii) — Possession of unauthorized quantity of gold or foreign gold is offence under S. 135 (b) (ii) — Prosecution however under Defence of India Rules is better course— See Defence of India Rules (1962), R. 126-P (Aug) 278C

DEBT LAWS

- Andhra Pradesh (Andhra Area) Agriculturists Relief Act (4 of 1938), S. 3 (ii) Provisos (B), (C) — Agriculturist though paying professional or property tax is still entitled to 1969 (Andh. Pra.) Indexes 2.

Debt Laws—Andhra Pradesh (Andhra Area)

- Agriculturists Relief Act (contd.)
- benefit of S. 13-A— See Debt laws — Andhra Pradesh (Andhra Area) Agriculturists Relief Act (4 of 1938), S. 13-A (Sep) 335C
- S. 13-A — Applies to debts incurred after Act (Sep) 335B
- Ss. 13-A and 3 (ii), Provisos (B), (C) — If person is agriculturist, he would be entitled to benefit of S. 13-A irrespective of question whether he pays profession tax or property tax as contemplated in provisos (B) and (C) of S. 3 (ii) (Sep) 335C

- Defence of India Rules (1962), R. 126-P — Customs Act (1962), S. 135 (b) (ii) — Possession of gold beyond permitted quantity or possession of smuggled foreign gold— Offence falls under both the Customs Act and the Defence of India Rules, but more particularly under Rule 126-P (2) (ii) and (iv) of Defence of India Rules, which has been specifically enacted for the purpose— Court using discretion must punish accused under Defence of India Rules (Aug) 278C

- Delimitation Commission Act (61 of 1962), Ss. 9 and 10 — Allotment of reserved seats after compliance with S. 9 — Decision of Commission cannot be challenged in Court of law, unless arbitrary (Jan) 1
- S. 10 — Allotment of reserved seats in compliance with S. 9 — Decision of Commission cannot be challenged in a Court of law — See Delimitation Commission Act (1962), S. 9 (Jan) 1

- Displaced Persons (Compensation and Rehabilitation) Act (44 of 1954), Ss. 12 and 13 — Provisions of S. 12 are not dependent on provisions of S. 13 (May) 158C

- S. 12 — Acquisition of property declared to be evacuee without payment of compensation — Act if violates Art. 31(2) of Constitution (May) 158D

- S. 12 — Acquisition of evacuee property without compensation — Section not hit by Art. 19 (1) (f) of Constitution (May) 158E

- S. 13 — Provisions of S. 12 are not dependent on provisions of S. 13 — See Displaced Persons (Compensation and Rehabilitation) Act (1954), S. 12 (May) 158C

- Divorce Act (4 of 1869), S. 10 — Word "may" in S. 17, Special Marriage Act governs all that follows namely, the grounds mentioned in Divorce Act — See Special Marriage Act (1872), S. 2 (Feb) 62B

- Drugs and Cosmetics Act (23 of 1940), S. 21 — A appointed as Inspector for Hyderabad

Drugs and Cosmetics Act (contd.)

District — *B* appointed as Inspector for twin cities of Hyderabad and Secunderabad — Held, given a plain meaning to the term Hyderabad District, it would include twin cities of Hyderabad and Secunderabad — Merely because *B* was appointed for twin cities it cannot be held that *A* was appointed for Hyderabad District excluding twin cities of Hyderabad and Secunderabad

(Mar) 99A

— *Ss. 21, 22, 32 (1)*—Criminal P. C. (1898), *Ss. 156 (2), 190 (1), 537*—Complaint lodged by Inspector under *S. 32 (1)*—Investigation however, made by another Inspector not authorised to investigate in the area—Power of Court to take cognizance—Trial, if bad

(Mar) 99B

— *S. 22* — Complaint lodged by Inspector under *S. 32 (1)* on basis of investigation by an Inspector not authorised to do so in the area — Power of Court to take cognizance—*See Drugs and Cosmetics Act (1940), S. 21*

(Mar) 99B

— *S. 22* — Criminal P. C. (1898), *S. 156 (2)* — Objections regarding irregularity in investigation must be raised at the earliest stage of trial

(Mar) 99D

— *Ss. 23, 25*—Sample taken by person who is not authorised Inspector — Report of Government Analyst on such sample is substantive evidence. A I R 1960 All 460, Dissented from

(Mar) 99C

— *S. 25* — Sample taken by unauthorised Inspector — Report of Analyst on such sample, is substantive evidence — *See Drugs and Cosmetics Act (1940), S. 23*

(Mar) 99C

— *S. 32 (1)*—Complaint under by Inspector — Investigation made by unauthorised Inspector—Cognizance—Trial—Validity—*See Drugs and Cosmetics Act (1940), S. 21*

(Mar) 99B

Easements Act (5 of 1882), S. 4 — Easement is an interest in property—Dominant owner however has no right or title to servient tenement

(Apr) 131C

— *Ss. 13, 28, 30*—Right to light and air — Partition — Effect — Transferee entitled to easement necessary for enjoyment of transferred property unless partition deed contains specific agreement to curtail such right

(Apr) 131A

— *S. 28*—Right to light and air — Partition — Effect—*See Easements Act (1882), S. 13*

(Apr) 131A

— *S. 30*—Right to light and air—Partition — Effect—*See Easements Act (1882), S. 13*

(Apr) 131A

Electricity (Supply) Act (54 of 1948), S. 15 — Not controlled by *S. 78-A* — Powers given

Electricity (Supply) Act (contd.)

under *S. 15* cannot be over-ridden by Government orders—*See Electricity (Supply) Act (1948), S. 78-A* (Sep) 328A

— *Ss. 78-A and 15*—Scope—Neither section is controlled by another — Power of State Government to give directions on questions of policy does not take away Board's power to appoint its employees—Board has power to call for applications and to appoint 50 per cent of Accountants by direct recruitment—*G. Os.* cannot override statutory powers of Board under *S. 15*. *W. P. No. 754 of 1966 D/- 8.9.1957 (AP), Reversed* (Sep) 328A

Essential Commodities Act (1 of 1955), S. 3—Classification made by *S. 3* and *S. 5*—Nature — *See Constitution of India, Art. 14*

(Nov) 414A

— *S. 5*—Constitutional validity—*See Constitution of India, Art. 14* (Nov) 414A

— *S. 7*—Notice by Grain Purchasing officer to licensed rice miller to sell rice—Default by miller—Pleas e. g., non-liability to sell because of alleged defects in requisitioning or omission to name the person to whom rice was to be delivered, could be raised and tried at trial — Writ petition on such grounds not maintainable — *See Constitution of India, Art. 226* (Feb) 59A

Estate Duty Act (34 of 1953), S. 5—Insurance amounts—Whether joint family property — Test—*See Hindu Law* (June) 188

— *S. 14*—Joint Hindu family — Insurance amounts—Whether joint family property — Test—*See Hindu Law* (June) 188

Evidence Act (1 of 1872), S. 3—Appreciation of evidence—Doing one's duty is not a reason by itself for a Court to reject one's evidence — *Dy. Supdt. Central Excise* is entitled to check smuggling of gold and is interested in booking cases against smugglers — That is not enough reason to reject his evidence (Aug) 278A

— *S. 5* — Oral evidence not objected to in trial Court—Cannot be objected to in second appeal—*See Civil P. C. (1908), Ss. 100-101*

(Aug) 300B

— *S. 25* — Central Excises and Salt Act (1944), *S. 14* — *Dy. Superintendent Central Excise* is not a Police Officer within *S. 25*—Voluntary statements made by accused to *Dy. Supdt. Central Excise* are not hit by *S. 25* (Aug) 278B

— *S. 92* — Terms of agreement clear and unambiguous — No oral evidence could be permitted—*See Forward Contracts (Regulation) Act (1952), S. 15* (Mar) 88

— *Ss. 101-104*—Reopening of assessment—Burden of proof that the option under *S. 3*,

Evidence Act (contd.)

Income-tax Act was not consciously used is on Income-tax Officer — *See* Income-tax Act (1922), S. 3 (Jan) 3

— *Ss. 101-104* — Non-statement of claim pursuant to notice under S. 9, Land Acquisition Act — Burden is on claimant to prove sufficient cause for omission — *See* Land Acquisition Act (1894), S. 9 (Apr) 124

— *Ss. 101-104* — Offence under Prevention of Corruption Act — Burden of proof — Prosecution case on infirm grounds — Defence version if not found false should be preferred — *See* Criminal P. C. (1898), S. 367 (Aug) 271C

— *Ss. 101-104* — Carriage by railway — Suit for damages — Onus of proof — *See* Contract Act (1872), S. 151 (Nov) 336A

— *S. 106* — Offence under Prevention of Corruption Act — Burden of proof — Prosecution case on infirm grounds — Defence version if not found false should be preferred — *See* Criminal Procedure Code (5 of 1898), S. 367 (Aug) 271C

— *S. 114* — Order of remand not mentioning provision of law — Presumption is that it is passed under O. 41, R. 23, Civil P. C. — *See* Civil P. C. (1908), O. 41, R. 23 (July) 216A

— *S. 145* — Recall of witness for cross-examination — Statement — Meaning of — Statement not fully recorded or recorded in form of memorandum falls within ambit of section (May) 148

Forward Contracts (Regulation) Act (74 of 1952), *Ss. 2 (c) and 2 (i)* — Forward contract — "Ready delivery contract" — Construction of — *See* Forward Contracts (Regulation) Act (1952), S. 15 (Mar) 88

— *Ss. 15, 2 (c) and 2 (i)* — Forward contract — "Ready delivery contract" — Agreement to sell certain bales of cotton 'before' 25-11-1955 entered into on 10-11-1955 — Payment to be made after weighing of bales — Construction of — Parties carrying on business of buying and selling ginned cotton but not members of any recognised association — Contract, held, was not a ready delivery contract and was hit by S. 15 read with S. 2 (c) — Terms of agreement being clear and unambiguous, no oral evidence could be permitted (Mar) 88

General Clauses Act (10 of 1897), S. 3 (26) — Right to collect and take away minor forest produce is benefit arising out of land, only when conferred for long period — *See* Indian Stamp (Andhra Pradesh Extension and Amendment) Act (19 of 1959), Sch. 1-A (Nov) 399A

General Clauses Act (contd.)

— *S. 26* — Offence falling under two statutes — How punishable — *See* Defence of India Rules (1962), R. 126-P (Aug) 278C

General Rules for the State and Subordinate Services Rules

See under Civil Services.

Government Grants Act (15 of 1895), S. 3 — Inam — Nature of grant — Inam title deed prevails over any other revenue records (Nov) 392A

— *S. 3* — Grant — Inam — Construction — Inam described as 'Devadayam' — It does not indicate that it was granted to the deity (Nov) 392B

Hindu Adoptions and Maintenance Act (78 of 1956), *Pre. and S. 4* — Act codifies law relating to maintenance — Object of codification — Act has overriding effect against any text, rule, etc., of Hind law (Jan) 15A

— *S. 4* — Act overrides any text, rule etc., of Hindu law relating to maintenance — *See* Hindu Adoptions and Maintenance Act (1956), Preamble (Jan) 15A

— *Ss. 22 and 25* — Applicability — Surrender of estate by widow in favour of reversioners prior to Act — Agreement by reversioners to pay maintenance with condition against enhancement — *S. 22* not being retrospective held did not apply — Suit under *S. 25* for enhancement of maintenance not maintainable — Widow's only claim could be on basis of agreement (Jan) 15B

— *S. 25* — Applicability — Surrender of estate by widow in favour of reversioners prior to Act — Agreement by reversioners to pay maintenance with conditions against enhancement — Suit for enhancement of maintenance under the section not maintainable — *See* Hindu Adoptions and Maintenance Act (1956), S. 22 (Jan) 15B

— *S. 25* — Decree or agreement fixing amount of widow's maintenance — *S. 25* is no bar to widow claiming increased maintenance due to change of circumstances irrespective of whether decree or agreement was prior to or subsequent to Act (July) 213

Hindu law — Alienation by father — Setting aside of — Suit by after-born son is maintainable — *See* Limitation Act (1908), S. 6 (Jan) 24A

— Alienation — Validity — Sole trustee of temple collecting amounts due to temple from others — Misappropriation of such amounts by him — Such a debt would not be an avyavaharika debt and the sale to satisfy such a debt would not suffer from any infirmity (Jan) 24B

Hindu Law (contd.)

—Avocation of "Sishya Sancharam" — Nature — Earnings therefrom do not constitute joint family property — (Civil P. C. (1908), S. 9) (Aug) 303

—Debts—Avyavaharika debt—*See* Hindu law—Alienation (Jan) 24B

—Joint family—Insurance amounts—Whether joint family property—Test (Jun) 188

—Joint family property — Alienation — Validity — *See* Hindu Women's Rights to Property Act (1937), S. 3 (Oct) 341

—Joint family property — Possession of portion by one member—Not proper ground for initiating proceedings under S. 145, Criminal P. C. — *See* Criminal P. C. (1898), S. 145 (May) 150

—Partition — Unregistered partition deed can be looked into to establish severance of status—AIR 1962 Andh Pra 443, **Overruled**—L.P. A. No. 44 of 1963, D/- 1-10-1965, **Partially overruled**—*See* Registration Act (1908), S. 49 (c) (July) 242 (FB)

—Widow — Surrender of estate to reversioner prior to Act of 1956 — Effect — *See* Hindu Adoptions and Maintenance Act (1956), S. 22 (Jan) 15B

Hindu Succession Act (30 of 1956), S. 14 (1) and (2)—Scope — When acquisition falls under either sub-section (1) or sub-section (2) explained — Definition of "property" in explanation to sub-s. (1) is an inclusive definition — Woman having maintenance decree with charge on property giving up the decree and taking life estate under compromise — Compromise recorded in Court giving her life estate in certain property — Question was if the woman held property under sub-section (1) or (2) — Held that the case fell under sub-s. (2) (Aug) 300A

Hindu Women's Rights to Property Act (18 of 1937), S. 3 — Position of widow under — Widow of predeceased son of predeceased son of sole surviving coparcener — Alienation by such coparcener of joint family property — Suit by alienee for declaration and possession—Widow can challenge alienation even without filing suit for partition—Alienee cannot get declaration that he is entitled to possession (Oct) 341

Hyderabad City Police Act (9 of 1348 Fasli), S. 26 (1) — Though the Commissioner of Police, Hyderabad, functions as first class Magistrate for limited purpose, his order under S. 26 (1) is an executive order — *See* Criminal P. C. (1898), S. 561-A (Dec) 444

Hyderabad State and Subordinate Services Rules

See under Civil Services.

Imports (Control) Order, No. 17/55, (D/- 7-12-55)—Person found in possession of imported watches—Onus to show that they are smuggled lies on the Department — *See* Sea Customs Act (1878), S. 167 (8) (Apr) 139

Income-tax Act (11 of 1922), Ss. 3 and 34—Scope—Income-tax Officer can either assess income of association of persons or of individuals constituting it—Burden of proving that option was not consciously exercised is on Income-tax Officer (Jan) 3

—S. 4 (3) (i) — Exemption under — Held that Hyderabad Stock Exchange Ltd. was entitled to exemption (Jan) 4

—Ss. 10 (2) (vi-b), (5) — Plants and fixtures — "Sanitary fittings and pipe line fittings" are fixtures in a hotel — Being used as fixtures they are also "plant" within S. 10 (2) (vi-b) (Mar) 84C

—S. 10 (2) (vi-b) — Development rebate can be granted on moveable as well as immoveable fittings (Mar) 84D

—S. 10 (2) (vi-b) — Income Tax Rules (1922), R. 8 (2) — Depreciation — Assessee treating "sanitary and pipe-line fittings" as "furniture and fittings in boarding house" and claiming depreciation under R. 8 (2) — For development rebate the same classed as 'plant' under S. 10 (2) (vi-b) — Rules made cannot take away what the Act gives—Held assessee's both claims were legal (Mar) 84E

—S. 34 — Scope — *See* Income-tax Act (1922), S. 3 (Jan) 3

—S. 34 — Notice to reopen assessment — Contents—It need not specify whether it is under S. 34 (1) (a) or (b) (Jan) 6B

—S. 34 (1) (a), (b) — Scope and applicability — Income-tax Officer considering cash-credits, accepting them and allowing interest — Subsequent discovery that those cash-credits were false and were not genuine—Held provision of S. 34 (1) (a) could be invoked as it was non-disclosure fully or truly of all material facts necessary for assessment (Jan) 6A

—S. 35 (5) — Scope — Individual assessment of a partner in a firm made prior to 1-4-1952 wherein his share of income from firm was also included—Assessment of firm completed after 1-4-1952—Income-tax officer has jurisdiction to reopen assessment of partner—Sub-section (5) becomes operative as soon as it is found on assessment or re-assessment of firm that share of partner in profit or loss of firm was not included in assessment or if included was not correct — Completion of assessment of partner as individual need not happen after 1-4-1952—Completed assessment is subject-matter of rectification and this may have preceded

Income-tax Act (contd.)

1-4-1952—Such completion does not control operation of sub-section (5): (1962) 46 ITR 609 (S C) held overruled by A I R 1968 S C 623; W. P. No. 1126 of 1962, D/- 1-2-1968 (AP), Reconsidered and order therein set aside in the light of Supreme Court Judgment in A I R 1968 S C 623 which had not been fully reported and was not brought to the notice of the previous Bench

(Dec) 441C

—S. 46 (2) — Revenue sale for recovery of arrears of income-tax subsequent to mortgage — Cannot prevail over the mortgage

(July) 237

Income Tax Rules (1922), R. 8 (2)—Depreciation — Claim for — Rules made cannot take away what the Act gives — See Income Tax Act (1922), S. 10 (2) (vi-b)

(Mar) 84E

Interpretation of Statutes—Codification of law — Object — See Hindu Adoptions and Maintenance Act (1956), Preamble

(Jan) 15A

—Definitions — Use of word “includes” and “means” — See Civil P. C. (1908), Pre

(Mar) 84A

—Fiscal statutes — Giving of plain and natural meaning to words is especially important in interpreting statutes of taxation — See Civil P. C. (1908), Pre

(Mar) 84B

Land Acquisition Act (1 of 1894), S. 4—Public purpose—Acquisition of land to provide amenities and conveniences to pilgrims visiting renowned Devasthanam—Acquisition is for public purpose

(Jul) 231A

—Ss. 9 and 25 (2), (3) — Non-statement of claim pursuant to notice under S. 9 — Burden is on claimant to prove sufficient cause for omission—No evidence to explain reason for omission — S. 25 (2) is attracted—Court not entitled to enhance award under S. 25 (3)

(Apr) 124

—Ss. 9 (3), 18 — Failure to serve notice under — Effect — Award neither illegal nor void — Party entitled to seek reference to Civil Court

(Jan) 10

—S. 16—Requirements—Existence of local authority for the area in question not necessary

(Jul) 231B

—S. 18 — Failure to serve notice under S. 9 (3)—Party entitled to seek reference to Civil Court—See Land Acquisition Act (1 of 1894), S. 9 (3)

(Jan) 10

—Ss. 23, 26 and 34—Andhra Pradesh Court Fees and Suits Valuation Act (1956), S. 48—Civil P. C. (1908), S. 2 (2) and (9) — Interest is not part of compensation

(Feb) 55B (FB)

Land Acquisition Act (contd.)

—S. 25 (2), (3) — Non-statement of claim pursuant to notice under S. 6—No evidence to explain reason for omission — S. 25 (2) attracted — Court not entitled to enhance award under S. 25 (3)—See Land Acquisition Act (1894), S. 9

(Apr) 124

—S. 26—Interest claimable under S. 34 is not part of award under S. 26 — See Land Acquisition Act (1894), S. 23

(Feb) 55B (FB)

—S. 34—Cross-objections for interest payable under—No court-fee payable on them. AIR 1964 Andh Pra 216, Overruled — See Court Fees and Suits Valuations — Andhra Pradesh Court Fees and Suits Valuation Act (1956), S. 48

(Feb) 55A (FB)

—S. 34—Interest claimable under S. 34 is not part of compensation under S. 23 — See Land Acquisition Act (1894), S. 23

(Feb) 55B (FB)

Letters Patent (Andhra Pradesh), Cl. 13 — Extra-ordinary original jurisdiction conferred on High Court — Distinct and different from jurisdiction conferred under Art. 226 of Constitution — See Limitation Act (1908), Art. 182

(Oct) 381

—Cl. 15—Points on which appeal may be heard—Point not raised before Court from whose judgment appeal preferred — Point cannot be allowed to be urged in appeal under this clause

(Mar) 92B

Life Insurance Corporation Act (31 of 1956), S. 49—Regulation under — Reg. 39 made under S. 49 — No bar to proceed against employee convicted under S. 409, Penal Code but dealt with under S. 12, Probation of Offenders Act (1958) — See Probation of Offenders Act (1958), S. 12

(Oct) 371A

—S. 49 - Regulation under - Reg. 39 (4) (i) and 39 (1) (g) — Conviction under S. 409, Penal Code — Dealt with under S. 12, Probation of Offenders Act (1958) — Dismissal on ground of conviction suffers infirmity—Distinction between dismissal for conviction and dismissal on grounds leading to conviction—See Probation of Offenders Act (1958), S. 12

(Oct) 371B

Life Insurance Corporation of India, Staff Regulations (1960), R. 39—Conviction under S. 409, Penal Code of employee—Dealt with under S. 12, Probation of Offenders Act (1958) — No bar to proceed under Reg. 39—See Probation of Offenders Act (1958), S. 12

(Oct) 371A

—Reg. 39 (4) (i), 39 (1) (g) — Conviction under S. 409, Penal Code—Dealt with under S. 12, Probation of Offenders Act (1958)—Dismissal on ground of conviction suffers from infirmity—Distinction between dismissal for

Life Insurance Corporation of India, Staff**Regulations (contd.)**

conviction and dismissal on grounds leading to conviction — *See* Probation of Offenders Act (1958), S. 12 (Oct) 371B

Limitation Act (9 of 1908), S. 6 and Art. 126

—Setting aside of alienation of ancestral property — Suit by after-born son and his brother who was in existence but minor at the time of alienation — No fresh cause of action for after-born son — Benefit of S. 6 available to existing son is available to him also (Jan) 24A

—S. 15—Period of attachment under O. 21 R. 53 — Cannot be excluded under S. 15—*See* Civil P. C. (1908), S. 48 (July) 250B (FB)

—S. 15—Execution proceedings—Revival —*See* Civil P. C. (5 of 1908), S. 48 (July) 250D (FB)

—S. 19—S. 19 does not control S. 48, Civil P. C. (1908)—*See* Civil P. C. (1908), S. 48 (July) 250C (FB)

—S. 29 (2) — Extent of application — *See* Civil P. C. (1908), S. 48 (July) 250C (FB)

—Art. 120 — “When right to sue accrued” —Government servant claiming benefits of Art. 487-B of Civil Service Regulations after retirement — Benefits refused on account of certain reversions in the past — Suit by servant to declare order of reversion as illegal — Starting point is the final order of Government refusing to treat suspension as not affecting any break in service by reason of suspension (July) 221

—Art. 126 — Setting aside alienation of ancestral property — Suit by after-born son Starting point — *See* Limitation Act (1908), S. 6 (Jan) 24A

—Arts. 134-B and 144 — Hereditary trustee of temple property alienating it as his own —Removal of such trustee and appointment of another trustee by Endowment Department — Suit by such another trustee to set aside alienation — Article 134-B and not Art. 144 is applicable — Even if Art. 144 would apply starting point for adverse possession would be the date of removal of previous trustee (Jan) 13A

—Arts. 142-144 — Trustee of temple property alienating it as his own — Suit by successor trustee to set aside alienation — Former trustee cannot claim adverse possession against temple—Alienation by him was breach of duty on his part to safeguard properties and interests of temple and he could not make claim hostile to the interests and title of the temple (Jan) 13B

—Art. 144—Applicability—Suit by trustee to set aside alienation of trust property by

Limitation Act (1908) (contd.)

earlier trustee — Article would not apply—*See* Limitation Act (1908), Art. 134B (Jan) 13A

—Art. 144 — Suit for setting aside an alienation of temple property as his own by former trustee—Former trustee cannot claim adverse possession against temple — *See* Limitation Act (1908), Art. 142 (Jan) 13B

—Art. 181—Article 181 refers to S. 48 for period of limitation — Article 181 does not specify any application under S. 48 — *See* Civil P. C. (1908), S. 48 (July) 250C (FB)

—Art. 182—Revival—*See* Civil P. C. (1908) S. 48 (July) 250A (FB)

—Art. 182—Article 182 envisages application for execution of decrees and orders not provided for by Art. 183 or S. 48, Civil P. C. —*See* Civil P. C. (1908), S. 48 (July) 250C (FB)

—Art. 182, Cl. (5)—Decree transferred for execution to another Court — Transferee Court is “proper Court” within the meaning of Art. 182—Jurisdiction of transferee Court continues till non-satisfaction report and original decree is sent to original Court under S. 41, Civil P. C. (Aug) 263B

—Arts. 182 and 183—Letters Patent (Andhra Pradesh), Cl. 13 — Constitution of India, Arts. 225 and 226—Decree in writ proceeding—Execution—Limitation (Oct) 381

—Art. 183 — Words “not provided for in Art. 183” in Art. 182—Do not apply to decree or order of High Court made under jurisdiction conferred by Constitution — *See* Limitation Act (1908), Art. 182 (Oct) 381

Limitation Act (36 of 1963), S. 5 — Election petition — Delay in impleading necessary party—Condonation — Permissibility — *See* Representation of the People Act (1951), S. 86 (May) 151C

—S. 21 — Applicability — *See* Provincial Insolvency Act (1920), S. 28 (5) (Jan) 23

—Art. 85—Circumstances showing mutual open and current account — Shifting of balance — Article will apply—A I R 1926 Mad 224, Dissented from (Aug) 294C

Madras District Municipalities Act (5 of 1920)
See under Municipalities.

Madras Local Authorities (Duty on Transfer of Property) Rules (1948), R. 3 — None of the provisions of Madras District Municipalities Act or relevant rules made thereunder refers to S. 35 of Stamp Act and makes it applicable to duty on transfer of property—*See* Municipalities—Madras District Municipalities Act (5 of 1920), S. 78.A (Dec) 417B

Madras Local Authorities (Duty on Transfer of Property) Rules (contd.)

—*R. 4*—Mention of Ss. 27 and 64 but not of S. 35, Stamp Act in *R. 4*—Effect of—*See* Municipalities—Madras District Municipalities Act (5 of 1920), S. 78-A

(Dec) 417B

—*R. 5*—None of the provisions of Madras District Municipalities Act or relevant rules made thereunder refers to S. 35 of Stamp Act and makes it applicable to duty on transfer of property—*See* Municipalities—Madras District Municipalities Act (5 of 1920), S. 78-A

(Dec) 417B

Madras Motor Vehicles Rules (1940), R. 153-D

—Rule is imperative—*See* Motor Vehicles Act (1939), S. 47 (1) (a)

(July) 225

Maintenance—Hindu widow—*See* Hindu Adoptions and Maintenance Act (1956), S. 25

Mineral Concession Rules (1960), R. 37, Explanation 1 (A)—Revision before Central Government under *R. 54* after lapse of 9 months from the date of original application—Is competent—*See* Mineral Concession Rules (1960), R. 54

(Feb) 39A

—*Rr. 54 and 37, Explanation 1 (A)*—Application for transfer of mining lease filed on 24-7-1965—No order passed by State Government within 9 months—Application must be deemed to have been refused—Revision filed before Central Government under *R. 54* after 23-4-1966 i.e., lapse of 9 months from the date of original application is competent

(Feb) 39A

—*R. 54*—Revision—Rejection of—Reasons must be stated—*See* Mines and Minerals (Regulation and Development) Act (1957), S. 11

(Nov) 410

—*R. 55*—Revision—Rejection of—Reasons must be stated—*See* Mines and Minerals (Regulation and Development) Act (1957), S. 11

(Nov) 410

Mines and Minerals (Regulation and Development) Act (67 of 1957), S. 11—Mineral Concession Rules (1960), Rr. 54, 55—Scope of S. 11—Lease granted by State Government to earliest applicant—Revision—Central Government is bound to state its reasons rejecting revision

(Nov) 410

Minimum Wages Act (11 of 1948), S. 3 (1) (a) Proviso and S. 3 (3) (iv)—Scope of proviso—In case of employment specified in Part I of Schedule minimum rates of wages must be for entire State—Such rates need not, however, be uniform—Different rates can be fixed for different zones or localities

(July) 227A

Minimum Wages Act (contd.)

—*S. 5*—Actual rate of wages finally fixed found to be more than what was given in draft proposals—Contention that there should have been another notification and another opportunity given to employers to make representation against variation—Held, contention was without substance—Draft proposals are only tentative and representations are received from both employers and employees—Any representations made by parties must contemplate and take into account possible enhancement or reduction

(July) 227B

—*S. 5*—Revision of minimum rates of wages of workers employed in Bidi manufactory—Contention that Advisory Board ought to have made independent enquiries of its own by visiting centres of Bidi industry—Held, as full information was made available to Board by the Government, who had gathered statistics from its various District Officers, it was wholly unnecessary for Board to go from place to place for making enquiries

(July) 227C

Motor Vehicles Act (4 of 1939), S. 47 (1) (a)

—Madras Motor Vehicles Rules (1940), R. 153-D—Sub-rules (A) (i) (b) and (A) (ii) introduced by G. O. Ms. No. 2455, Home (Transport-I) dated 25-11-1960—Rule is imperative—Grant of stage carriage permits on medium route—Preference has to be given to applicants holding 1 to 4 stage carriages

(July) 225

—*Ss. 48 (3), 58*—Andhra Pradesh Motor Vehicles Rules (1964), R. 169—Renewal of permit—Secretary, Regional Transport Authority has no power to vary conditions of permit

(June) 180

—*S. 58*—Renewal of permit—Power to vary conditions—*See* Motor Vehicles Act (4 of 1939), S. 48 (3)

(June) 180

—*Ss. 96 (1) and (2), 110A, 110B*—Proceedings for compensation before Claims Tribunal—Person assured under policy is necessary party

(Nov) 390

—*S. 110A*—Proceeding for compensation—Person assured is necessary party—*See* Motor Vehicles Act (1939), S. 96 (1)

(Nov) 390

—*S. 110B*—Proceeding for compensation—Person assured is necessary party—*See* Motor Vehicles Act (1939), S. 96 (1)

(Nov) 390

MUNICIPALITIES

—Madras District Municipalities Act (5 of 1920), *Ss. 78 A, 116.A, 116-B and 116.C*—Madras Local Authorities (Duty on Transfer of Property) Rules (1948), Rr. 3, 4, 5—Scope and applicability—Mention of Ss. 27 and

Municipalities — Madras District Municipalities Act (contd.)

64, but not of S. 35 of Stamp Act in S. 116-B and R. 4 — Effect of — Penal provision like S. 35 of Stamp Act cannot be applied by inference — Civil Court has no power to levy or exact duty on transfer and penalty thereof (Dec) 417B

—S. 116-A—Civil Court has no power to levy or exact duty on transfer and penalty thereof—See Municipalities — Madras District Municipalities Act (5 of 1920), S. 78-A (Dec) 417B

—S. 116-B—Mention of Ss. 27 and 64 but not of S. 35, Stamp Act in S. 116-B — Effect of — See Municipalities — Madras District Municipalities Act (5 of 1920), S. 78-A (Dec) 417B

—S. 116-C —None of the provisions of the Act confers any power on any Civil Court to levy and exact transfer duty or any penalty in respect thereof—See Municipalities — Madras District Municipalities Act (5 of 1920), S. 78-A (Dec) 417B

—S. 241 — Section is not ultra vires and void—Notice given under it directing catching and destroying unlicensed dogs is also not void (Sep) 325B

PANCHAYATS

—Andhra Pradesh Gram Panchayat Act (2 of 1964), S. 20—Duly elected member does not cease to be a member merely because some one alleges that he has incurred a disqualification—See Constitution of India, Art. 226 (Jan) 22

—S. 22—Writ alleging that elected member was subsequently disqualified from holding office under S. 20 — Proper remedy is to move under S. 22 — Writ of quo warranto is most inappropriate — See Constitution of India, Art. 226 (Jan) 22

Payment of Wages Act (4 of 1936), Ss. 9 and 15 (2) and (3) — Jurisdiction of authority to grant relief — Workers absenting from duty in pursuance of notice of strike issued by them — Ordinary deduction from wages for period of absence from duty effected but not further deduction provided by proviso to S. 9 (2)—Authority not competent to adjudicate upon justification for strike : 1960 (2) Lab L J 99 (Bom), Dissented from (June) 200

—S. 15 (2) and (3)—Deduction from wages for period of absence from duty because of strike — Authority has no jurisdiction to adjudicate upon justification of strike : 1960 (2) Lab L J 99 (Bom), Dissented from — See Payment of Wages Act (1936), S. 9 (June) 200

Penal Code (45 of 1860), S. 71 — Offence falling under two statutes—How punishable — See Defence of India Rules (1962), R. 126-P (Aug) 278C

—S. 161 — Statement made by accused to police on being trapped — Hit by S. 162, Criminal P. C. — See Criminal P. C. (5 of 1898), S. 162 (Aug) 271A

—S. 161 — Offence complete even on attempt to seek illegal gratification — Statement made by accused even before trap but after offence was complete is hit by S. 162, Criminal P. C. : A I R 1963 Guj 145, Dissented. — See Criminal P. C. (5 of 1898), S. 162 (Aug) 271B

—S. 161 — Offence under Prevention of Corruption Act — Burden of proof — Prosecution case on infirm grounds — Defence version if not found false should be preferred — See Criminal P. C. (5 of 1898), S. 367 (Aug) 271C

—S. 182 — Superintendent-in-charge of Central Telegraph Office can file complaint under S. 182 — See Criminal P. C. (1898), S. 195 (1) (a) (Feb) 41A

—S. 211 — Proceedings by Magistrate under Ss. 167 and 173 are judicial — Hence cognizance of an offence under S. 211, Penal Code, in relation to such proceedings on private complaint is barred under S. 195 (1) (b)—See Criminal P. C. (1898), S. 4 (m) (Aug) 281B

—S. 417 — Superintendent-in-charge of Central Telegraph Office can file complaint under S. 417 — See Criminal P. C. (1898), S. 195 (1) (a) (Feb) 41A

—S. 420 — Offence under, in respect of lorry — Ownership of lorry in dispute — Competency of Criminal Court to decide — See Criminal P. C. (1898), S. 517 (Feb) 54

—S. 471 — Superintendent-in-charge of Central Telegraph Office can file complaint under S. 417 — See Criminal P. C. (1898), S. 195 (1) (a) (Feb) 41A

Power of Attorney Act (7 of 1882), S. 2 — General power of attorney in Urdu—Power to compromise — Construction of power of attorney — See Contract Act (1872), S. 186 (July) 211

Prevention of Corruption Act (2 of 1947), S. 4 (1)—Presumption rebuttable—Presumption cannot be invoked at any stage of investigation — See Criminal P. C. (5 of 1898), S. 162 (Aug) 271A

—S. 5 (1) (a) and (2)—Statement made by accused to police on being trapped, hit by S. 162, Criminal P. C. — See Criminal P. C. (5 of 1898), S. 162 (Aug) 271A

—S. 5 (1) (d) and (2) — Offence under Prevention of Corruption Act — Burden of

Prevention of Corruption Act (contd.)

proof — Prosecution case on infirm grounds — Defence version if not found false should be preferred — See Criminal P. C. (5 of 1898), S. 367 (Aug) 271C

Prevention of Cruelty to Animals Act (11 of 1900), S. 5

— Municipality catching stray dogs by long scissors and asphyxiating them by putting them in a pit and allowing them to die — *Held*, such method was unnecessarily cruel — Permanent injunction restraining Municipality from destroying stray dogs either by cynogassing or mere asphyxiating or catching them by hooked scissors held proper (Sep) 325A

— S. 5 — Section does not warrant injunction restraining municipality with regard to manner of destroying stray dogs — But the Municipality being public body and plaint being filed in representative capacity by plaintiffs relief can be given to them in spite of S. 5 because of the cruel manner adopted by Municipality (Sep) 325C

Prevention of Food Adulteration Act (37 of 1954), S. 2(i), (a), (b) and (c)

— Food article not of nature, substance or quality which it purports or is represented to be — Amounts to "adulterated food" within S. 2 (i) (a) (Dec) 445A

— S. 13 (5) — Report of Public Analyst — When not binding on Court (Dec) 445B

Probation of Offenders Act (20 of 1958), S. 12

— Section provides for removal of automatic disqualification flowing from conviction and not obliteration of misconduct of official concerned — Where an official of Life Insurance Corporation has been convicted under S. 409, Penal Code, but is dealt with under S. 12, the disciplinary authority is not precluded from proceeding under Reg. 39 (4) of Life Insurance Corporation of India, Staff Regulations (1960) by reason of S. 12 for the misconduct which led to the conviction (Oct) 371A

— S. 12 — Life Insurance Corporation of India Staff Regulations (1960), Regs. 39 (4) (i) and 39 (1) (g) — There is clear distinction between dismissing official for his conduct and dismissing official for his conviction — Dismissal of employee under Reg. 39 (4) flowing from conviction and not on conduct leading to conviction — Dismissal suffers from infirmity by reason of S. 12 (Oct) 371B

Provincial Insolvency Act (5 of 1920), Ss. 4, 53 and 54

— Scope — Joint Hindu family — Untainted debts of father — Suit for partition by sons before the declaration of insolvency — Question whether son's share could be brought in to meet the creditor's demand

Provincial Insolvency Act (contd.)

against father by virtue of doctrine of pious obligation under Hindu law is within the discretion of Insolvency Court — Remedy of Official Receiver to have the properties of sons sold by private sale is lost, but his right to enforce debts against sons remains (Dec) 437

— S. 6 — Act of insolvency on part of debtor alleged — Reliance by petitioner on specific clauses of S. 6 — Court can consider if 'act' complained of comes within other clauses not specifically mentioned: AIR 1929 Mad 910 (1), Dissented from (Sep) 318A

— S. 6 (a) — Expression "benefit of creditors" — Meaning of — Transfer of property to stranger — Provision in sale deed for payment to creditors by transferee — Not sufficient to attract S. 6 (a) — Such transfer must create right enforceable by creditors directly against transferee (Sep) 318D

— S. 6 (b) — "Intent to defeat or delay creditors" — Meaning of — Transfer of property by debtor — Allegation of intent to defeat or delay in respect of one single creditor — Clause (b) is not applicable — Intent must relate to whole body of creditors (Sep) 318B

— Ss. 6 (c) and 54 — Transfer of property in favour of person who is not creditor — S. 6 (c) read with S. 54 is inapplicable — Transfer, when void for fraudulent preference — Ingredients stated (Sep) 318C

— S. 6 (1) (c) — Petition under — Allegation that act of insolvency is committed by equitable mortgage — Petition must be filed within three months from deposit of title deeds — See Provincial Insolvency Act (1920), S. 9 (1) (c) (Oct) 338

— Ss. 9 (1) (c), 6 (1) (c) — Petition under S. 6 (1) (c) — Allegation that act of insolvency is committed by equitable mortgage — Petition must be filed within three months from deposit of title deeds — Knowledge to creditor about when mortgage took place is immaterial (Oct) 338

— S. 11 — While in view of S. 11 read with S. 36, it may not be objectionable to file concurrently two petitions for adjudication of same debtor, but once property vests in official receiver any order of adjudication subsequently passed would not divest property already vested — See Provincial Insolvency Act (1920), S. 28 (4) (Dec) 446C

— S. 27 — Order of adjudication passed under S. 27 — Effects provided under S. 28 whether automatically ensue — See Provincial Insolvency Act (1920), S. 28 (Dec) 446B

— Ss. 28, 27 — Order of adjudication passed under S. 27 — Effects provided under S. 28 whether automatically ensue (Dec) 446B

Provincial Insolvency Act (contd.)

—Ss. 28 (4), 11, 36 — Property vesting in Official Receiver—Any order of adjudication subsequently passed would not divest property already vested (Dec) 446C

—S. 28 (5) — Insolvent's right to sue for contribution—Vests in Official Liquidator as not exempted under S. 60 (e) of Civil P. C. (1908)—Suit on such right by insolvent not maintainable (Jan) 23

—S. 36—Petitions for insolvency presented concurrently in more than one Court — Section vests discretion in Court to annul adjudication or stay proceedings and if discretion is not exercised, proceedings in both the Courts can without any objection be continued (Dec) 446A

—S. 36—While in view of S. 11 read with S. 36 it may not be objectionable to file concurrently two petitions for adjudication of same debtor but once property vests in Official Receiver any order of adjudication subsequently passed would not divest property already vested—See Provincial Insolvency Act (1920), S. 28 (4) (Dec) 446C

—S. 53—Joint Hindu family — Untainted debts of father — Suit for partition by sons before declaration of insolvency — Remedy of official receiver to have the properties of sons sold by private sale is lost, but his right to enforce debts against sons remains —See Provincial Insolvency Act (1925), S. 4 (Dec) 437

—S. 54—Transfer of property in favour of person who is not creditor — S. 6 (c) read with S. 54 is inapplicable—Transfer, when void for fraudulent preference—Ingredients stated—See Provincial Insolvency Act (1920), S. 6 (c) (Sep) 318C

—S. 54 — Joint Hindu family—Untainted debts of father — Suit for partition by sons before declaration of insolvency — Remedy of official receiver to have the properties of sons sold by private sale is lost, but his right to enforce debts against sons remains — See Provincial Insolvency Act (1925), S. 4 (Dec) 437

Public Purpose

—See Land Acquisition Act (1894), S. 4

Railway Establishment Code

See under Civil Services.

Railways Act (9 of 1890), S. 72 (Old)—Negligence — Suit for damages—Onus of proof — See Contract Act (1872), S. 151 (Nov) 386A

—S. 77—Claims relating to loss, destruction or deterioration—Provision still applicable (Nov) 386C

—S. 77—Notice under S. 80, Civil P. C.—Sufficiency—See Civil P. C. (1908), S. 80 (Nov) 386D

Registration Act (16 of 1908), S. 17—Scope—Section ought to be strictly construed — Benefit of doubt goes to party wanting document to go in evidence (Apr) 131D

—S. 17 — Unregistered partition deed can be looked into to prove severance of status AIR 1962 Andh Pra 443, **Overruled**. L. P. S. No. 44 of 1963, D/- 1-10-1965 (Andh Pra), **Partially overruled** — See Registration Act (1908), S. 49 (c) (July) 242 (FB)

—Ss. 49 (c), 17 — Unregistered partition deed — Though cannot be looked for terms of partition, can be looked into for establishing severance of status — AIR 1962 Andh Pra 443, **Overruled** and L.P.A. No. 44 of 1963, D/- 1-10-1965 (Andh Pra), **Partially overruled** (July) 242 (FB)

—S. 69 (as inserted by Andhra Pradesh Amendment Act (5 of 1960)) — State legislature is competent to amend the section in view of entry No. 6 of Concurrent List—(Constitution of India, Sch. 7, List III, Entry No. 6) (Apr) 134D

—S. 69 (bb) (Andhra) — Rules framed under, R. 210 — Rule is constitutionally valid — (Constitution of India, Arts. 14, 19) (Apr) 134A

—S. 69 (bb) (Andhra)—Rules framed under R. 199 (4) — Rule takes liberal view of those document writers who are already working in the field—Rule does not impose unreasonable restriction on profession of document writers (Apr) 134B

—S. 69 (bb) (Andhra)—Rules framed under, R. 203—Fee prescribed for grant of licence to document writers and for renewal is not heavy and does not suffer from any vice (Apr) 134C

Representation of the People Act (43 of 1951), S. 79 (b)—Candidate — Meaning of — First condition is that person must either be duly nominated or claiming to be duly nominated — Significance of holding out lies in determining starting time of candidature and that only if he satisfies the first condition (Feb) 68B

—S. 79 (b) — All candidates who come within definition of candidate under S. 97 (b) come within the expression "other candidate" in S. 82 (A)—See Representation of the People Act (1951), S. 82 (Feb) 68C

—S. 79 (b) — "Candidate" — Who is—See Representation of the People Act (1951), S. 86 (1) (May) 151A

—Ss. 82, 79 (b), 86 and 99—Expression "other candidates"—Meaning of—It includes all candidates who come within definition of candidate under S. 79 (b) and whose names were not included in list of contesting candidates prepared under S. 33—Such candidates are necessary parties if there are allegations

Representation of the People Act (contd.)

of corrupt practice against them—If they are not made parties, petition is to be dismissed in limine under S. 86 (1) (Feb) 68C
 —Ss. 82 (b) and 123 (1) (B) (a)—Scope and applicability—Mere allegations of corrupt practice are sufficient—Whether corrupt practice was committed by candidate in his own interest or as candidate, is immaterial (Feb) 68A

—S. 82 (b)—Non-compliance with provisions of S. 82 (b)—Provisions of O. 1, R. 10, Civil P. C., cannot be invoked for removing defect under S. 82 (b)—See Representation of the People Act (1951), S. 87 (Feb) 68D

—S. 82 (b)—Election petition—Parties to—Person who has withdrawn from contest—When necessary party—See Representation of the People Act (1951), S. 86 (1) (May) 151A

—S. 86—Candidates against whom corrupt practice is alleged are necessary parties—Failure to make them parties makes the petition liable to be dismissed in limine—See Representation of the People Act (1951) S. 82 (Feb) 68C

—S. 86—Election petition—Necessary party not impleaded—Petition liable to be dismissed—Delay cannot be condoned (May) 151C

—S. 86 (1)—Non-joinder of necessary party—Plea of waiver under O. 1, R. 13, Civil P. C., has to yield to mandatory provisions of S. 86 (1)—Petition must be dismissed—See Representation of the People Act (1951), S. 87 (Feb) 68D

—Ss. 86 (1), 79 (b), 82 (b), 123 (1) (B) (a)—Election Petition—Parties to—Candidate withdrawing from contest—Allegations of bribery against him—He is a necessary party to election petition—Failure to implead him is fatal (May) 151A

—S. 86 (1) and (4)—Sub-section (4) when comes into play (May) 151D

—Ss. 87, 86 (1) and 82 (b)—Civil P. C. (1908), O. 1, Rr. 10 and 13—Scope and applicability—Provisions of Civil P. C. apply only when there is no express provision in Act and there is no inconsistency with Act—Consequences of non-compliance with S. 82 (b) are provided in Act—Court cannot invoke power under Order 1 to avoid these consequences—Assuming that defect is removable it should be removed within limitation (Feb) 68D

—S. 99—Allegation of corrupt practice against candidates—High Court has power to specify names of all persons who have been proved to be guilty of corrupt practices after giving notices to persons concerned—See Representation of the People Act (1951), S. 82 (Feb) 68C

Representation of the People Act (contd.)

—S. 123—Scope (May) 151B

—S. 123 (1) (B) (a)—Mere allegations of corrupt practice are sufficient—See Representation of the People Act (1951), S. 82 (b) (Feb) 68A

—S. 123 (1) (B) (a)—Allegations of bribery against a candidate who had withdrawn from contest—He is necessary party to election petition—Failure to implead him is fatal—See Representation of the People Act (1951), S. 86 (1) (May) 151A

SALES TAX

—Andhra Pradesh General Sales Tax Act (6 of 1957), S. 2 (c)—“Dealer”—Sale of forest produce by Government—Forest contractor is not bound to pay sales tax (Nov) 399B

—S. 5—Assessment of dissolved firm is invalid (Apr) 127

Sea Customs Act (8 of 1878), Ss. 167 (8) and 178-A—Imports (Control) Order No. 17/55 (dated 7-12-55)—Person found in possession of imported watches—Onus to show that they are smuggled lies on the Department—S. 178A does not apply (Apr) 139

—S. 178-A—Person found in possession of imported watches—Onus to show that they are smuggled lies on the Department—See Sea Customs Act (1878), S. 167 (8) (Apr) 139

Special Marriage Act (3 of 1872), Ss. 2, 17—Contravention of S. 2, Cl. (3)—Marriage not void but voidable—Court has large discretion in such matters under S. 17 (Feb) 62B

—S. 17—Marriage in contravention of S. 2 (3)—Not void but voidable—Court has large discretion in such matters under S. 17—See Special Marriage Act (1872), S. 2 (Feb) 62B

—Ss. 24 and 34 (1) (e)—Delay in filing petition for declaring marriage null and void—Failure of spouse to induce other spouse for divorce—No explanation for delay—Individuals cannot challenge validity of marriage when they like—Relief under S. 24 cannot be granted (Feb) 62A

—S. 34 (1) (c)—Provision has nothing to do with rights of party—Prescribes only manner in which Court's discretion is to be exercised (Feb) 62C

—S. 34 (1) (e)—Delay in filing petition for declaration of marriage null and void—No relief under S. 24 can be granted—See Special Marriage Act (1872), S. 24 (Feb) 62A

Specific Relief Act (1 of 1877), S. 28—Applicability—See Civil P. C. (1908), O. 21, R. 19 (May) 146

Specific Relief Act (1877) (contd.)

—S. 55—Suit for removal of obstruction to public street and for restraining defendant from interfering with plaintiff's right to use street for passage of cattle, carts etc. — Permanent injunction restraining defendant from interfering with plaintiff's right to use street granted but mandatory injunction refused on ground that notwithstanding obstruction placed by plaintiff street was wide enough to afford passage to cattle and carts and that plaintiff had not proved special damage — Held, right of public to pass and repass extended over every inch of street and plaintiff was entitled to mandatory injunction for removal of obstructions without proof of special damage : S. A. No. 239 of 1960 D/- 21-8-1963 (AP) **Reversed** (Apr) 136

Specific Relief Act (47 of 1963), S. 34 — Alienee in possession of specific item of joint family property — Cannot obtain any declaration as against other co-parceners that he is permanently entitled to be in possession of such property — *See* Hindu Women's Rights to Property Act (1937), S. 3 (Oct) 341

—S. 39 — Executability of decree — *See* Civil P. C. (1908), S. 47 (Mar) 92C

—S. 39 — Injunctions — O. 21, R. 32 (5) applies only to mandatory injunctions but sub-rule (1) applies to both mandatory and prohibitory injunctions — *See* Civil P. C. O. 21, R. 32 (5) (Mar) 92D

STAMP DUTY

—**Stamp Act (2 of 1899), S. 24** — Stamp duty — Property sold free of encumbrance — Stamp duty payable only on sale price

(Apr) 143

—S. 27—Specific mention of Ss. 27 and 64 in S. 116B of Madras District Municipalities Act would lead to inference that legislature did not contemplate application of S. 35 of Stamp Act to levy and collection of transfer duty under Madras Act — *See* Municipalities — Madras District Municipalities Act (5 of 1920), S. 78-A (Dec) 417B

—S. 35 — A penal provision like S. 35, Stamp Act cannot be made applicable by inferences — *See* Municipalities — Madras District Municipalities Act (5 of 1920), S. 78-A (Dec) 417B

—S. 36 — "Where an instrument has been admitted in evidence" — Document provisionally admitted subject to final orders— Such tentative reception of document does not amount to admission of document within S. 36 (Dec) 417A

—S. 64 — Specific mention of Ss. 27 and 64 in S. 116B of Madras District Municipalities

Stamp Duty — Stamp Act (contd.)

Act would lead to inference that legislature did not contemplate application of S. 35 of Stamp Act to levy and collection of transfer duty under Madras Act — *See* Municipalities — Madras District Municipalities Act (5 of 1920), S. 78-A

(Dec) 417B

—**Stamp (Andhra Pradesh Extension and Amendment) Act (19 of 1959), Sch. I-A, Art. 31 (c)** — Agreement in respect of right to collect and take away minor forest produce — It is not lease - No stamp duty is payable under that Article (Nov) 399A

—*Sch. I-A, Art. 35 (c)* — Sale of forest produce by public auction— Security deposit is not mortgage deed and stamp duty cannot be demanded under Article 35 (c) (Nov) 399C

—*Art. 5 (c)*—Agreement in respect of right to collect and take away minor forest produce—Agreement is chargeable under Article 5 (c) only — *See* Stamp Duty — Stamp (Andhra Pradesh Extension and Amendment) Act (19 of 1959), Sch. I-A (Nov) 399A

TENANCY LAWS

—**Andhra Tenancy Act (18 of 1956), S. 13** — Provision of the section is mandatory — *See* Constitution of India, Art. 227 (Jan) 18

Tort — Malicious prosecution—Suit for damages for malicious prosecution in respect of information given under S. 107 Criminal P. C.—Requisites (Jan) 29A

—Malicious prosecution—Test whether a proceeding under Criminal P. C., amounts to prosecution, explained (Jan) 29B

Transfer of Property Act (4 of 1882), S. 6—Deed — Document purporting to extinguish right, title or interest in property — Construction — Document should be read as a whole Intention of parties to be taken into account (Apr) 131B

—S. 53-A— Scope — Transferee obtaining possession of property in pursuance of agreement executed by two vendors — Sale deed executed by one vendor alone in respect of his share only — Transferee conveying absolute interest to assignee — Assignee obtaining possession of entire property—Plea of part performance not open to assignee against another vendor (Apr) 132

—S. 58 (f) — Deposit of title deeds as security for repayment of debt—Transacti-

T. P. Act (contd.)

is mortgage by deposit of title deeds within meaning of section — Transaction when complete — *See* Provincial Insolvency Act (1920), S. 9 (1) (c) (Oct) 338

—S. 105—Agreement in respect of right to collect and take away minor forest produce — It is not lease — *See* Indian Stamp (Andhra Pradesh Extension and Amendment) Act (19 of 1959), Sch. 1-A (Nov) 399A

Wealth Tax Act (27 of 1957), S. 2 (e) (i)— Expression “agricultural land”— Interpretation — Must be construed liberally and given widest meaning (Oct) 345A (FB)

—S. 2 (e) (i) — Expression “agricultural land” — Meaning — Determination of its character—Principles to be considered stated (Oct) 345B

Words and Phrases — Expression “agricultural land”—Meaning of should be wide and liberal—*See* Wealth Tax Act (1957), S. 2 (e) (i) (Oct) 345A (FB)

Words and Phrases (contd.)

—Expression “agricultural land” — Wide and liberal interpretation necessary — *See* Wealth Tax Act (1957), S. 2 (e) (i) (Oct) 345B (FB)

—“Certify” meaning of — *See* Civil P. C. (1908), S. 41 (Aug) 263A

—Word ‘day’—Meaning of—*See* Criminal P. C. (1898), S. 247 (July) 222A

—Word “includes” and “means”—Meaning and scope of—*See* Civil P. C.: (1908), Pre. (Mar) 84A

—“Personal rights” and “private properties”—*See* Constitution of India, Art. 363 (Dec) 423A

—“Public servant concerned” meaning—*See* Criminal P. C. (1898), S. 195 (1) (a) (Feb) 41A

—“Sulah and Supurd Salisi”—Meaning of — *See* Contract Act (1872), S. 186 (July) 211

—“Where an instrument has been admitted in evidence”—*See* Stamp Duty — Stamp Act (1899), S. 36 (Dec) 417A

ANDHRA PRADESH CASES SUBJECTWISE OVERRULED, REVERSED AND DISSENTED FROM, ETC., IN A. I. R. 1969

DISS. = Dissented from in; **NOT F.** = Not followed in; **OVER.** = Overruled
in; **REVERS.** = Reversed in.

Bihar and Orissa Public Demands Recovery Act (4 of 1914)

- S. 43 (3) — A I R 1963 Andh Pra 164 —
Held impliedly overruled by AIR 1966
S C 1068 as interpreted A I R 1969
Orissa 58 (Mar).

Civil Procedure Code (5 of 1908)

- S. 114 — A I R 1963 Andh Pra 18 — Diss.
AIR 1969 Mad 227B (June).
- O. 6, R. 17 — A I R 1957 Andh Pra 10 —
Diss. AIR 1969 Ker 75 (Mar).
- O. 7, R. 10 — A I R 1957 Andh Pra 10 —
Diss. AIR 1969 Ker 75 (Mar).
- O. 23, R. 1 — A I R 1957 A P 10 — Diss.
AIR 1969 Ker 75 (Mar).
- O. 47, R. 1 — A I R 1963 Andh Pra 18 —
Diss. AIR 1969 Mad 227B (June).

Constitution of India

- Art. 14 — W. P. No. 754 of 1966, D/-
8-9-1967 (AP) — **Revers.** AIR 1967 Andh
Pra 328D (Sep).
- Art. 16 (1) — W. P. No. 754 of 1966, D/-
8-9-1967 (AP) — **Revers.** AIR 1967 Andh
Pra 328D (Sep).
- Art. 226 — ILR (1967) Andh Pra 361 —
Revers. AIR 1969 S C 1306A (Dec).

Contract Act (9 of 1872)

- S. 25, sub-s. (3) — A I R 1963 Andh Pra
337 — Diss. A I R 1969 Orissa 301A
(Dec).

COURT-FEES AND SUITS VALUATIONS

— Andhra Pradesh Court-fees and Suits Valuations Act (7 of 1956)

- S. 48 — AIR 1964 A P 216 — **Over.** AIR
1969 Andh Pra 55A (Feb) (FB).
- S. 49 — AIR 1964 A P 216 — **Over.** A I R
1969 Andh Pra 55A (Feb) (FB).

Criminal Procedure Code (5 of 1898)

- S. 435 — AIR 1956 Andh Pra 97 — Diss.
AIR 1969 Ker 126 (Apr) (FB).
- S. 438 — AIR 1956 Andh Pra 97 — Diss.
AIR 1969 Ker 126 (Apr) (FB).
- S. 439 — AIR 1956 Andh Pra 97 — Diss.
AIR 1969 Ker 126 (Apr) (FB).

Electricity (Supply) Act (54 of 1948)

- S. 15 — W. P. No. 754 of 1966, D/- 8-9-
1967 (AP) — **Revers.** A I R 1969 Andh
Pra 328A (Sep).
- S. 78A — W. P. No. 754 of 1966, D/- 8-9-
1967 (AP) — **Revers.** A I R 1969 Andh
Pra 328A (Sep).

Employees Provident Funds Act (1952)

- S. 1 (3), (5) — AIR 1965 Andh Pra 200 —
Diss. AIR 1969 Mys 300 (Oct).

Hindu Law

- Partition — A I R 1962 Andh Pra 443 —
Over. AIR 1969 Andh Pra 242 (July)
(FB).
- Partition — L. P. A. No. 44 of 1963, D/-
1-10-1965 (AP) — **Partly overruled.** AIR
1969 Andh Pra 242 (July) (FB).

Income-tax Act (11 of 1922)

- S. 44 — (1966) 59 I. T. R. 315 (AP) —
Revers. AIR 1969 S C 285 (Apr).

Income-tax Act (43 of 1961)

- S. 2 (7), (31) — (1966) 2 Andh L T 423 —
Revers. AIR 1969 S C 682A (Aug).
- S. 2 (7) (31) — ILR (1967) Andh Pra 729
— **Revers.** AIR 1969 S C 682A (Aug).
- S. 140 (b) — (1966) 2 Andh L T 423 —
Revers. AIR 1969 S C 682A (Aug).
- S. 140 (b) — ILR (1967) Andh Pra 729 —
Revers. AIR 1969 S C 682A (Aug).
- S. 222 — (1966) 2 Andh L T 423 — **Revers.**
AIR 1969 S C 682A (Aug).
- S. 222 — ILR (1967) Andh Pra 729 —
Revers. AIR 1969 S C 682A (Aug).
- Ss. 276, 276A — (1966) 2 Andh L T 423 —
Revers. AIR 1969 S C 682A (Aug).
- Ss. 276, 276A — ILR (1967) Andh Pra 729
— **Revers.** AIR 1969 S C 682A (Aug).
- S. 277 — (1966) 2 Andh L T 423 — **Revers.**
AIR 1969 S C 682A (Aug).
- S. 277 — ILR (1967) Andh Pra 729 —
Revers. AIR 1969 S C 682A (Aug).
- S. 282 (2) — (1966) 2 Andh L T 423 —
Revers. AIR 1969 S C 682A (Aug).
- S. 282 (2) — ILR (1967) Andh Pra 729 —
Revers. AIR 1969 S C 682A (Aug).

Income-tax Act (1961) (*cont'd.*)

- Sch. 2, R. 1 (b) — (1966) 2 Andh L T 423
—**Revers.** AIR 1969 S C 682A (Aug).
- Sch. 2, R. 1 (b)—ILR (1967) Andh Pra 729
—**Revers.** AIR 1969 S C 682A (Aug).
- Sch. 2, R. 2 — (1966) 2 Andh L T 423 —
—**Revers.** AIR 1969 S C 682A (Aug).
- Sch. 2, R. 2—ILR (1967) Andh Pra 729—
—**Revers.** AIR 1969 S C 682A (Aug).
- Sch. 2, Rr. 16, 73 — (1966) 2 Andh L T 423—**Revers.** AIR 1969 SC 682A (Aug).
- Sch. 2, Rr. 16, 73—ILR (1967) Andh Pra 729—**Revers.** AIR 1969 SC 682A (Aug).

Land Acquisition Act (1 of 1894)

- S. 34 — AIR 1964 Andh Pra 216 — **Over.**
AIR 1969 Andh Pra 55A (Feb) (FB).

Letters Patent (Mad)

- Cl. 15 — AIR 1963 Andh Pra 18 — **Diss.**
AIR 1969 Mad 227B (June).

Motor Vehicles Act (4 of 1939)

- S. 3 (3), (19), (20), (22), (23) — AIR 1962
Andh Pra 14—**Over.** AIR 1969 S C 493A
(June).
- S. 42 (1)—AIR 1962 Andh Pra 14—**Over.**
AIR 1969 S C 493A (June).
- S. 60 (1) (c) — AIR 1962 Andh Pra 14 —
Over. AIR 1969 S C 493A (June).

MUNICIPALITIES

—Gujarat Municipalities Act (34 of 1963)

- S. 14 (5) (a) (iv) — AIR 1955 Andh Pra
109—**Diss.** AIR 1969 Guj 334 (Nov).

Registration Act (16 of 1908)

- S. 17 — AIR 1962 Andh Pra 443 — **Over.**
AIR 1969 Andh Pra 242 (July) (FB).
- S. 17 — L P A 44 of 1963, D/- 1-10-1965
Partially over. AIR 1969 Andh Pra 242
(FB) (July).
- S. 49 (c) — AIR 1962 Andh Pra 443 —
Over. AIR 1969 Andh Pra 242 (July)
(FB).
- S. 49 (c)—L. P. A. No. 44 of 1963, D/- 1-
10-1965 (A P) — **Partially over.** AIR
1969 Andh Pra 242 (July) (FB).

Specific Relief Act (1 of 1877)

- S. 55 — S. A. No. 239 of 1960, D/- 21-8-
1963 (A. P.) — **Revers.** AIR 1969 Andh
Pra 136 (Apr).

Succession Act (39 of 1925)

- S. 105 — L. P. A. No. 2 of 1963, D/- 9-3-
1964 (A. P.) — **Revers.** AIR 1969 S C
1335C (Dec).

ANDHRA PRADESH CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss.=Dissented from in; Not. F.=Not Followed in; Over.=Overruled
in; Revers.=Reversed in

- AIR 1955 Andh Pra 109 = 1955 Andh W R 133, Viswanadhuni Venkatakondayya v. Election Commr., Kangir—Diss. AIR 1969 Guj 334 (Nov).
- AIR 1956 Andh Pra 97=1956 Cri L J 571 (2), Veera Ramayya v. Udayagiri Venkita Seshavatharam — Diss. AIR 1969 Ker 126 (FB) (Apr).
- AIR 1957 Andh Pra 10 = 1956 Andh W R 354, E. R. R. M. H. S. Committee v. P. Atchayya — Diss. AIR 1969 Ker 75 (Mar).
- AIR 1962 Andh Pra 14=(1959) 2 Andh W R 407, Chavali Venkataswami v. Chavali Kotayya — Over. AIR 1969 S C 493A (Jun).
- AIR 1962 Andh Pra 443=(1962) 1 Andh W R 230, Nookreju v. Ramamurthi — Over. AIR 1969 Andh Pra 242 (FB) (July).
- AIR 1963 Andh Pra 18=ILR (1963) Andh Pra 661, Srinadham In re—Diss. AIR 1969 Mad 227B (June).
- AIR 1963 Andh Pra 164=(1962) 2 Andh L T 383, Hussain Ali v. State of A. P. — Held impliedly overruled by AIR 1966 S C 1068 as Interpreted A I R 1969 Orissa 58 (Mar).
- AIR 1963 Andh Pra 337=(1963 1 Andh L T 501, Sambayya v. Shemsherkhan—Diss. AIR 1969 Orissa 301A (Dec).
- (’63) S. A. No. 239 of 1960, D/- 21-8-1963 (A. P.) — Revers. AIR 1969 Andh Pra 136 (Apr)
- AIR 1964 Andh Pra 216 = (1964) 1 Andh W R 185, Dodla Mallaiah v. State - Over. A I R 1969 Andh Pra 55A (FB) (Feb).
- (’64) L. P. A. No. 2 of 1963, D/- 9-3-196 (A. P.) — Revers. AIR 1969 S C 1355C (Dec).
- AIR 1965 Andh Pra 200 = (1965) 2 Andh W R 326, Nazeena Traders (P) Ltd. v Regional Provident Fund Commr Hyderabad — Diss. AIR 1969 Mys 301 (Oct).
- (’65) L. P. A. No. 44 of 1963, D/- 1-10-1963 (A. P.) — Partially Over. AIR 1969 Andh Pra 242 (FB) (July).
- (1966) 2 Andh L. T. 423, Kapoorchand v. Tax Recovery Officer — Revers. AIR 1969 S C 682A (Aug).
- (1966) 59 I. T. R. 315 (A. P.), Kalva Suryanarayana v. Income Tax Officer—Revers AIR 1969 S C 285 (Apr).
- I L R (1967) Andh Pra 361, Natarajan v. R. A. C. of Labour Hyderabad—Revers. AIR 1969 S C 1306A (Dec).
- I L R (1967) Andh Pra 729, Kapoor Chand v. Tax Recovery Officer — Revers. AIR 1969 S C 682A (Aug).
- (’67) W. P. No. 754 of 1966, D/- 8-9-1967 (A. P.) — Revers. AIR 1969 Andh Pra 328A, D (Sep).

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years

Owing to late receipt of other Journals the following *supplement* to comparative tables of A. I. R. = Other Journals is issued.

A.I.R. Andhra Pradesh = Other Journals

AIR 1965 Andhra Pradesh	AIR 1966 Andhra Pradesh	AIR 1967 Andhra Pradesh	AIR 1968 Andhra Pradesh
AIR Other Journals	AIR Other Journals	AIR Other Journals	AIR Other Journals
133 ILR (1967)	167 ILR (1967)	155 ILR (1967)	108 ILR (1969)
Andh Pra 1241	Andh Pra 916	Andh Pra 1451	Andh Pra 341
136 ILR (1967)	187 ILR (1967)	186 ILR (1967)	121 ILR (1969)
Andh Pra 1358	Andh Pra 1014	Andh Pra 616	Andh Pra 408
158 ILR (1967)	209 ILR (1967)	169 ILR (1967)	129 (1968) 2 Lab L J 729
Andh Pra 153	Andh Pra 157	Andh Pra 1166	142 ILR (1969)
159 ILR (1967)	223 ILR (1967)	208 ILR (1968)	Andh Pra 328
Andh Pra 1002	Andh Pra 725	Andh Pra 151	147 ILR (1969)
191 ILR (1967)	226 ILR (1967)	211 ILR (1967)	Andh Pra 318
Andh Pra 1252	Andh Pra 449	Andh Pra 1499	153 1968 Serv L R 603
288 ILR (1967)	285 ILR (1967)	219 ILR (1967)	160 ILR (1967)
Andh Pra 1028	Andh Pra 625	Andh Pra 487	Andh Pra 1437
334 ILR (1967)	289 ILR (1967)	237 ILR (1967)	198 ILR (1969)
Andh Pra 129	Andh Pra 956	Andh Pra 249	Andh Pra 12
337 ILR (1967)	310 ILR (1967)	247 ILR (1967)	213 ILR (1969)
Andh Pra 202	Andh Pra 514	Andh Pra 784	Andh Pra 631
342 ILR (1967)	375 ILR (1967)	257 ILR (1968)	218 ILR (1969)
Andh Pra 1047	Andh Pra 946	Andh Pra 1	Andh Pra 256
373 ILR (1967)	377 ILR (1967)	291 ILR (1968)	228 ILR (1968)
Andh Pra 1095	Andh Pra 698	Andh Pra 189	Andh Pra 329
401 ILR (1967)	384 ILR (1967)	299 ILR (1968)	239 (1969) 2 Andh LT
Andh Pra 342	Andh Pra 915	Andh Pra 42	135
415 ILR (1967)	AIR 1967 Andhra Pradesh	323 ILR (1967)	282 ILR (1969)
Andh Pra 186	AIR Other Journals	Andh Pra 1133	Andh Pra 226
471 ILR (1967)	8 ILR (1967)	353 ILR (1967)	293 (1969) 2 Lab L J 485
Andh Pra 208	Andh Pra 609	Andh Pra 409	309 (1969) 1 Andh
	22 ILR (1968)	Andh Pra 695	W R 4
	Andh Pra 22	AIR 1968 Andhra Pradesh	311 ILR (1969)
AIR 1965 Andhra Pradesh	26 ILR (1968)	AIR Other Journals	Andh Pra 666
AIR Other Journals	Andh Pra 355	AIR Other Journals	320 ILR (1969)
20 ILR (1967)	42 ILR (1967)	1FB (1969) 1 Andh	Andh Pra 283
Andh Pra 173	Andh Pra 884	W R 474	336 (1969) 1 Andh L T 9
42 ILR (1967)	76 ILR (1967)	ILR (1967)	ILR (1969)
Andh Pra 1071	Andh Pra 719	Andh Pra 1426	Andh Pra 676
51 ILR (1967)	90 ILR (1967)	(1969) 1 Andh L T	350 (1969) 2 Lab L J 615
Andh Pra 301	Andh Pra 888	392	352 35 F J R 61
70 ILR (1969)	99 ILR (1969)	5 1968 Serv L R 430	(1969) 2 Lab L J 209
Andh Pra 301	Andh Pra 111	ILR (1967)	19 Fac L R 302
91 ILR (1967)	109 ILR (1967)	Andh Pra 786	364 1969 Serv L R 177
Andh Pra 607	Andh Pra 1523	(1969) 2 Lab L J 88	(1969) 1 Andh W R
92 ILR (1967)	119 ILR (1969)	22 ILR (1969)	17
Andh Pra 436	Andh Pra 101	Andh Pra 203	381 (1969) 1 Andh W R
96 ILR (1967)	129 (2) ILR (1967)	50 ILR (1969)	305
Andh Pra 346	Andh Pra 357	Andh Pra 29	1969 Mad L J (Cri)
137 ILR (1967)	133 ILR (1967)	100 ILR (1968)	317
Andh Pra 577	Andh Pra 843	Andh Pra 79	(1969) 2 Andh L T 1
147 ILR (1967)	151 ILR (1967)	103 ILR (1968)	383 1968 Mad L J (Cri)
Andh Pra 535	Andh Pra 901	Andh Pra 223	714

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [CN 1]		55conILR (1969)		146 [CN 46]		222 [CN 69]	
(1967) 2 Andh W R	248	FB Andh Pra 508		(1969) 1 Andh W R	262	1969 Ori L J 852	
ILR (1969)		59 [CN 22]		149 [CN 47] ---		225 [CN 70] ...	
Andh Pra 207		(1968) 2 Andh L T	144	150 [CN 48]		227 [CN 71]	
3 [CN 2]		1969 Cri L J 157		(1969) 1 Andh W R	139	1969 Lab I C 802	
(1967) 2 Andh W R	294	62 [CN 23]		1969 Mad L J (Cri)	166	231 [CN 72] ...	
(1967) 2 I T J 441		(1969) 1 Andh W R	275	1969 Ori L J 644		234 [CN 73] ...	
4 [CN 3]		67 [CN 24] ---		(1969) 2 Andh L T	110	236 [CN 74] ...	
(1962) 2 I T J 311		68 [CN 25] ---		151 [CN 49] ...		237 [CN 75] ...	
(1967) 2 Andh W R	226	76 [CN 26]		155 [CN 50]		242 [CN 76]	
66 I T R 195		(1968) 1 Andh L T	72	1969 Lab I C 596		FB (1969) 1 Andh W R	396
6 [CN 4]		82 [CN 27]		158 [CN 51] ...		(1969) 1 Andh L T	375
(1967) 1 I T J 887		1969 Andh L T 165		167 [CN 52]		250 [CN 77]	
(1967) 2 Andh W R	43	84 [CN 28]		(1969) 1 Andh W R	100	FB (1969) 1 Andh W R	455
66 I T R 46		70 ITR 366		(1969) 2 Andh L T	208	(1969) 1 Andh L T	349
9 [CN 5] ---		ILR (1969)		180 [CN 53]		263 [CN 78] ...	
10 [CN 6]		Andh Pra 363		(1967) 2 Andh W R	460	271 [CN 79]	
(1969) 1 Andh W R	135	(1970) 1 Andh W R 68		183 [CN 54] ---		1969 Cri L J 1016	
(1969) 2 Andh L T	105	88 [CN 29]		184 [CN 55] ...		(1969) 2 Andh W R	281
13 [CN 7]		(1968) 2 Andh W R	287	188 [CN 56]		1969 Mad L J (Cri)	687
(1968) 1 Andh W R	19	(1968) 2 Andh L T	291	(1968) 1 Andh W R	31	278 [CN 80]	
15 [CN 8]		ILR (1969)		68 I T R 849		1969 Cri L J 1022	
(1967) 2 Andh W R	475	Andh Pra 1074		(1968) 1 I T J 554		281 [CN 81]	
(1968) 1 Andh L T 9		92 [CN 30] ...		ILR (1969)		1968 Mad L J (Cri)	430
18 [CN 9] ---		99 [CN 31]		Andh Pra 663		(1968) 2 Andh W R	122
21 [CN 10]		(1968) 2 Andh L T	388	192 [CN 57]		(1969) 1 Andh L T	174
(1968) 2 Andh W R	223	1969 Ori L J 368		(1968) 2 Andh W R	580	1969 Cri L J 1025	
22 [CN 11] ...		105 [CN 32]		195 [CN 58]		291 [CN 82]	
23 [CN 12] ---		(1969) 1 Andh W R	271	(1969) 1 Andh W R	330	1969 Ori L J 1035	
24 [CN 13]		109 [CN 33]		1969 Lab I C 705		294 [CN 83] ...	
(1968) 1 Andh L T	94	1969 Lab I C 351		196 [CN 59] ...		300 [CN 84] ...	
(1968) 1 Andh W R	236	118 [CN 34]		200 [CN 60]		303 [CN 85]	
29 [CN 14]		(1969) 1 Andh W R	85	(1968) 2 Andh W R	609	FB (1969) 1 Andh W R	142
(1968) 2 Andh L T	156	1969 Lab I C 401		18 Fac L R 58		(1969) 1 Andh L T	201
(1968) 2 Andh W R	473	124 [CN 35] ...		1969 Lab I C 707		ILR (1969)	
1968 Mad L J (Cri)	674	127 [CN 36]		204 [CN 61] ...		Andh Pra 597	
35 [CN 15] ---		(1969) 2 Andh W R	295	206 [CN 62]		318 [CN 86] ...	
39 [CN 16]		128 [CN 37]		1969 Cri L J 802		325 [CN 87] ...	
(1968) 2 Andh W R	584	(1969) 1 Andh W R	366	39 Com Cas 993		328 [CN 88]	
41 [CN 17]		129 [CN 38] ...		211 [CN 64] ...		(1969) 1 Andh W R	551
1969 Cri L J 145		131 [CN 39] ...		(1969) 1 Andh W R	41	(1969) 1 Andh L T	303
45 [CN 18] ...		134 [CN 40] ...		(1969) 1 Andh L T	169	1969 Lab I C 1080	
47 [CN 19]		136 [CN 41]		215 [CN 66]		335 [CN 89] ...	
(1968) 1 Andh W R	382	ILR (1969)		(1968) 1 Andh L T	191	(1970) 1 Andh W R 53	
1968 Mad L J (Cri)	260	Andh Pra 490		(1969) 2 Andh W R	147	338 [CN 90]	
1969 Cri L J 149		(1969) 2 Andh L T	130	216 [CN 67]		(1969) 1 Andh W R	490
ILR (1969)		139 [CN 42]		(1969) 2 Andh W R	49	341 [CN 91] ...	
Andh Pra 884		(1969) 1 Andh W R	372	221 [CN 68]		345 [CN 92]	
54 [CN 20]		140 [CN 43]		1969 Lab I C 801		72 I T R 552	
1969 Cri L J 156		37 Com Cas 686				(1963) 2 Andh L T	67
55 [CN 21]		68 I T R 331				ILR (1969)	
FB (1968) 2 Andh L T	148	(1967) 2 Com L J	249			Andh Pra 712	
		143 [CN 44]				(1969) 2 Andh L T	368
		(1969) 1 Andh W R	368			(1969) 2 I T J 732	
		145 [CN 45] ...					

Other Journals=All India Reporter

ILR (1967)

Andh Pra

(Feb. to Dec. 1967)

ILR An Pra

AIR

129 1965 AP 334

153 " " 158

157 1966 " 209

173 " " 20

188 1965 " 416

202 " " 337

208 " " 471

247 1967 " 237

301 1966 " 51

312 1965 " 409

346 1966 " 96

357 1967 " 129(2)

409 " " 353

436 1966 " 92

449 " " 226

487 1967 " 219

514 1966 " 310

535 " " 147

577 " " 137

607 " " 91

609 1967 " 8

616 " " 186

625 1966 " 285

698 " " 377

719 1967 " 75

725 1966 " 223

764 1967 " 247

786 1968 " 5

843 1967 " 133

884 " " 42

888 " " 90

901 " " 151

915 1966 " 384

916 " " 167

946 " " 375

956 " " 289

1002 1965 " 159

1014 1966 " 187

1028 1965 " 288

1047 " " 342

1071 1966 " 42

1095 1965 " 372

1133 1967 " 393

1166 " " 189

1241 1965 " 132

1252 " " 191

1358 " " 136

1425 1968 " 1

ILR (1967) Andh Pra

ILR

AIR

1437 1968 AP 140

1401 1967 " 155

1498 " " 211

1523 " " 109

—

ILR (1968)

Andh Pra

(Jan. to April 1968)

ILR An Pra

AIR

1 1967 AP 257

22 " " 22

42 " " 299

79 1963 " 100

151 1967 " 208

189 " " 291

207 1969 " 1

243 1968 " 103

279 1970 " 86

329 1968 " 228

355 1987 " 26

—

ILR (1969)

(Andh Pra)

(Jan. to Dec. 1969)

ILR An Pra

AIR

12 1968 AP 198

29 " " 50

101 1967 " 119

111 " " 99

203 1968 " 22

226 " " 282

256 " " 218

283 " " 320

301 " " 70

318 " " 147

328 " " 142

341 " " 108

363 1949 " 84

408 1968 " 121

442 1969 " 423

476 " " 392

490 " " 136

508 " " 55

597 " " 303

632 1968 " 213

642 1969 " 399

ILR (1969) AndhPra

ILR

AIR

666 1968 AP 311

676 " " 336

695 1967 " 376

712 1969 " 345

863 " " 188

884 " " 47

942 1970 " 1

1074 1969 AP 84

1131 1970 " 70

—

(1967) 2 Andh

L T

Andh L T

AIR

231 1969 A P 362

—

(1968) 1 Andh

L T

Andh L T

AIR

72 1969 AP 76

191 " " 215

—

(1968) 2 Andh

L T

Andh L T

AIR

144 1969 AP 59

148 " " 55

280 1969 SO 30

291 1969 AP 88

354 1968 SO 1379

375 " " 1005

388 1969 AP 99

—

(1969) 1 Andh

L T

Andh L T

AIR

9 1968 AP 336

41 1968 SO 1299

(1969) 1 Andh L T

Andh L T

AIR

47 1968 SC 1393

56 1970 AP 43

62 1969 SO 110

73 1970 AP 56

101 1968 SO 1223

165 1969 AP 82

169 " " 213

174 " " 281

201 " " 303

302 " " 328

349 " " 350

375 " " 241

392 1968 " 1

—

(1969) 2 Andh

L T

(July to Sept. 1969)

Andh L T

AIR

1 1968 AP 381

87 1969 " 345

105 " " 10

110 " " 150

130 " " 136

135 1968 " 239

208 1969 " 167

—

(1967) 2 Andh

W R

Andh W R

AIR

203 1969 AP 362

460 " " 180

—

(1968) 1 Andh

W R

Andh W R

AIR

31 1969 AP 188

242 1969 AP 392

382 " " 47

(1968) 2 Andh

W R

Andh W R

AIR

142 1969 AP 281

147 " " 215

267 " " 88

580 " " 192

584 " " 39

602 " " 200

—

(1969) 1 Andh

W R

(Jan. to June 1969)

Andh W R

AIR

4 1968 AP 309

17 " " 554

28 1969 " 390

41 " " 213

48 1970 " 43

52 " " 56

85 1969 " 118

100 " " 167

135 " " 10

139 " " 150

142 " " 303

162 1968 " 333

203 1969 " 55

224 " " 136

243 " " 374

252 " " 146

271 " " 106

275 " " 62

305 1968 " 381

330 1969 " 195

366 " " 128

368 " " 143

372 " " 139

396 " " 242

425 " " 423

455 " " 250

474 " " 1

490 " " 338

453 1969 AP 415

(1969) 1 Andh W R				(1959) 1 An WR (SC)				(1969) 2 Andh W R				(1969) 2 Andh W R (S C)				(1959) 2 An WR (SC)			
Andh W R		AIR		Andh WR (SC)		AIR		Andh W R		AIR		Andh W R (S C)		AIR		Andh W R		AIR	
551	1969	AP	328	47	1969	SC	348	49	1969	AP	216	1	1969	SC	682	50	"	"	692
				51	1968	"	1138	171	1969	AP	399	6	"	"	740	59	"	"	684
				83	1969	"	563	281	"	"	271	9	"	"	701	80	"	"	843
				86	"	"	493	295	"	"	127	15	"	"	110	90	"	"	1028
				90	"	"	435	334	1970	"	80	25	"	"	569	95	"	"	940
(1969) 1 Andh W R (S C)				(1969) 2 Andh W R				(1969) 2 Andh W R (S C)				(1969) 2 Andh W R (S C)				(1969) 2 Andh W R (S C)			
An WR (SC) AIR				An WR (SC) AIR				An WR (SC) AIR				An WR (SC) AIR				An WR (SC) AIR			
1	1968	SC	327	1	1968	SC	327	430	"	"	381	28	"	"	552	99	1970	"	74
6	"	"	1028	11	"	"	1047	506	1969	AP	371	31	"	"	764	105	1969	"	1359
11	"	"	1047	28	1969	SC	147									107	"	"	1147
28	1969	SC	147	1	1969	AP	444									114	1970	"	66

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1969

[Vol. 56]

BOMBAY SECTION

WITH COMPARATIVE TABLES FOR

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| (1) I. L. R. BOMBAY | (2) BOMBAY LAW REPORTER |
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BOMBAY HIGH COURT

1969

CHIEF JUSTICES :

The Hon'ble Mr. Justice S. P. Kotwal, B.A., LL.B. (upto 8-11-1969).

" " N. A. Mody, B.A., LL.B. (A. C. J. from 9-11-69)

PUISNE JUDGES :

The Hon'ble Mr. Justice N. A. Mody, B.A., LL.B. (upto 8-11-69).

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ADDITIONAL JUDGES :

The Hon'ble Mr. Justice G. N. Vaidya, M.A., LL.B.

"	"	N. D. Kamat, B.A. (Hons.), LL.B.
"	"	S. B. Bhasme (From 9-1-69).
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NOMINAL TABLE

Asant Dattatraya v. Chintaman Govind	(Jul) 210	Indumatiben Chimanlal Desai v. Union of India	(Dec) 423
Antaji Ramchandra v. Pandurang Yesu	(Nov) 363	Jafferli Alibhai v. S. R. Dossa & Co.	(Feb) 66
Atmaram Namdeo v. State of Maharashtra	(Jun) 189	Jagu Anyaba Adhav v. Bajrang Auba Jadhav	(Mar) 90
Badrinarayan Ramsukh v. Nichaldas Tejbhandas	(Apr) 119	Josephy Santa Vincent v. Ambico Industries, Bombay	(Feb) 49
Bagga J. N. v. All India Reporter Ltd.	(Sep) 302	Kailas Sizing Works v. Municipality of Bhivandi and Nizampur	(Apr) 127
Balu Shivling Dombé v. Divisional Magistrate, Pandharpur	(Oct) 351	Kedarnath Gangagopal v. Sitaram Narayan Moharil	(Jul) 221
Belapur Co., Ltd. v. Maharashtra State Farming Corporation	(Jul) 231	Keshavsingh Dwarkadas v. M/s. Indian Engineering Co.	(Jul) 227
Bijibai Saldhana v. Rama Manohar Thannu	(Mar) 103	Khulshalchand Bhaiyalal Jain v. State of Maharashtra	(Feb) 70
Bombay Grain Dealers Association v. Lakhmichand Vasanji and Co.	(Oct) 342	Kisan Januji v. Anilkumar Manilal	(Jul) 213
Brajvallabh Shankarlal v. Maharashtra Revenue Tribunal, Nagpur	(Jul) 218	Lakhamshi Hiralal and Co. v. Damji Khimji and Co.	(Feb) 73
Camera House, Bombay v. State of Maharashtra	(Dec) 437	Lakshminarayanan, K. v. Deputy Chief Controller of Imports and Exports, Madras	(Jul) 224
Central Bank Executor & Trustee Co. Ltd. v. Hormusji Nusserwanji Madraswalla	(Mar) 101	Mahomed Haidar v. Jamal Haider	(Oct) 328
Chemist a Firm v. Ishwarlal Karsondas Kapadia	(Aug) 282	Mahomed Shariff Suleman v. State	(Nov) 383
Chhotabhai Jethabhai Patel & Co. v. Industrial Court, Nagpur	(Feb) 56	Manoramabai Moreswar v. Ibrahim Khan Bismilla Khan	(Nov) 366
Chipping and Painting Employers' Association Private Limited, Bombay v. A. T. Zambre	(Aug) 274	Marketing and Advertising Associates Pvt. Ltd. v. Telerad Private Ltd.	(Oct) 323
Chudaman Narayan v. State of Maharashtra	(Jan) 1	Nageshwar Rao N. v. Ruth Moses	(Feb) 54
Deviprasad Khandelwal & Sons v. Union of India	(May) 163	Parwati v. Janabai	(Feb) 77
Dinshaw Manekji v. G. B. Badkas	(May) 151	Popat Namdeo Sodanvor v. Jagu Pandu	(Apr) 140
Diwalibhai Damjibhai v. Jaikumar Gopaldas	(Nov) 393	Pramodrai Shamaldas v. Life Insurance Corporation of India	(Oct) 337
Farbwerke Hoechst Aktiengesellschaftvormals Meister Lucius & Bruning a Corporation v. Unichem Laboratories	(Aug) 255	Premprakash Surajmal v. Maharashtra Revenue Tribunal, Nagpur	(Nov) 361
Gokhale H. R. v. Bharucha Noshir C.	(Jun) 177	Presidency Industrial Bank Ltd. v. Hindustan Leather Industries Ltd.	(Mar) 84
Harbhajankaur v. State	(Aug) 285	Radhakisan Hiralal v. Trimbak Maruti	(Nov) 397
Harnarayan Dhanrup v. State of Maharashtra	(Jun) 198	Rama Ananda v. Appa Bhima	(Jun) 205
Hiranandani K. G. v. Bharat Barrel and Drum Mfg. Co. Pvt. Ltd.	(Nov) 373	Ramchandra Govind v. State	(Jan) 20
Indian Express Newspapers (Bombay) Ltd. v. Basumati Private Ltd.	(Feb) 40	Ramchandra Sheshgiri v. Janardan Vishwanath	(Mar) 111
		Ramraj Sinh v. State of Maharashtra	(Oct) 333
		Rangrao Bhausahab Nalawade v. Bhimrao Babu Dhole	(Dec) 433
		Reserve Bank Employees Association, Nagpur v. State of Maharashtra	(Jun) 199

Runjaji Suryabhanji v. Smt. Manujurabai Urkudaji	(Sep) 319	Union of India v. Kalinga Textiles Private Ltd. Company	(Dec) 401
Sawant B. A. v. State	(Nov) 353	Union of India v. Ramakrishna Ramnath	(Jan) 7
Sheshrao Parashram v. Yeshwant Ambusa	(Dec) 429	Union of India v. Sugrabai	(Jan) 13
Shevaram Thadharam Jaisinghani v. Indian Oil Corporation Ltd.	(Apr) 117	Union of India v. Authority under the Minimum Wages Act, 1948 for Neral Area and Civil Judge Junior Division Karjat	(Sep) 310
Shiva Martand Tapkire v. Arun Nankchand Khatri	(Mar) 93	Varjivandas Hirji and Co. v. D. T. Ghatpande	(Mar) 95
Shobha Venkat Rao v. K. R. Mahale	(Nov) 370	Velayudhan Kuttapan Nair v. Regional Director (Food) Western Region, Bombay	(Sep) 315
State v. Jwalaprased Dube	(Nov) 360	Vishwambhar Vithalrao v. Madhavrao Piraji	(Nov) 395
State v. Sharadkumar Virchand Shah	(Oct) 848	Yadneshwar Madhav v. Mango Raoji	(Feb) 74
State v. Vali Mohammad	(Sep) 294 (FB)	Zainab Bai v. Navayug Chitrapat Co. Ltd.	(June) 194
State v. Vithal Hari Nikate	(Feb) 71		
Sunder Parmanand v. Caltex (India) Ltd.	(Jan) 24		
Tarabai Vishwanath Sabnis v. National and Grindlays Bank Ltd.	(Dec) 447		

SUBJECT INDEX

Arbitration Act (10 of 1940), Ss. 3, 8 (1) (b) and Sch. I, R. 4 — Two contingencies mentioned in Rule 4 — Arbitration agreement clause incorporating only one of contingencies in Rule 4 — Other contingency is not necessarily excluded (Jul) 227B

—S. 8 (1) (b) — Word “appoint” — Meaning — Consent is not an ingredient (Jul) 227A

—S. 8 (1) (b) — No distinction between “refusal to act” and “refusal to accept” nomination for purposes of Section 8 — See Arbitration Act (1940), Section 3 (Jul) 227B

—S. 14 (2) — Section 14 (2) does not apply to award under Section 19 of Defence of India Act (1939) — See Defence of India Act (1939), S. 19 (1) (g) and (e) (May) 151

—S. 17 — Provisions of this section do not apply to arbitration under Section 19 of the Defence of India Act 1939, and the rules made thereunder — See Defence of India Act (1939), S. 19 (1) (g) and (e) (May) 151

—S. 46 — See Defence of India Act (1939), S. 19 (1) (g) and (e) (May) 151

—Sch. I, R. 4 — Two contingencies mentioned in Rule 4 — Agreement clause incorporating only one — Other is not necessarily excluded — See Arbitration Act (1940), S. 3 (Jul) 227B

Banking Companies Act (10 of 1949), S. 44-A — Sanction of scheme of amalgamation — Effect — Transfer and vesting takes place by virtue of sanction — No separate

Banking Companies Act (contd.) order necessary — See Civil P. C. (1908), O. 21, R. 6 (Mar) 84B

Bombay Agricultural Debtors' Relief Act (28 of 1947) See under Debt Laws.

Bombay Court Fees Act (36 of 1959) See under Court-fees and Suits Valuations.

Bombay District Municipal Act (3 of 1901) See under Municipalities.

Bombay General Clauses Act (1 of 1904), S. 3 (20) — Negligence of Municipality or its officers — Suit for damages — Plaintiff must establish want of good faith or honesty in addition to negligence — See Municipalities — Bombay District Municipal Act (3 of 1901), S. 167 (Apr) 127A

—S. 3 (20) — Good faith — Implication and connotation — See Municipalities — Bombay District Municipal Act (3 of 1901), S. 167 (Apr) 127B

Bombay High Court Original Side Rules. See under High Court Rules and Orders.

Bombay Housing Board Act (69 of 1948) See under Houses and Rents.

Bombay Industrial Relations Act (11 of 1947), S. 42 (4) — Relief under S. 78 (1)D — Compliance with Section 42 (4) not a condition precedent — See Bombay Industrial Relations Act (11 of 1947), S. 78 (1)D (i), (ii) and (iii) (as introduced by Act 22 of 1965) (Feb) 56

—Ss. 78 (1)D (i), (ii) (iii) (as introduced by Act 22 of 1965) and 42 (4) — Relief under Section 78 (1)D — Compliance with

Bombay Industrial Relations Act (contd.)
Section 42 (4) not a condition precedent
(Feb) 56

Bombay Land Revenue Code (5 of 1879),
Ss. 165, 178, 179, 181 — **Bombay Prevention of Fragmentation and Consolidation of Holdings Act (62 of 1947),** Section 31 — **T. P. Act (1882),** Sections 6 (h), 7 — Auction sale held under provisions of Land Revenue Code — Acceptance of minor's bid — Effect — Sale whether contravened Section 31 of Bombay Prevention of Fragmentation and Consolidation of Holdings Act
(Mar) 93

—S. 178 — Auction sale held under the provisions of the Code — Acceptance of minor's bid is illegality which vitiates sale — See **Bombay Land Revenue Code (5 of 1879),** S. 165
(Mar) 93

—S. 179 — Auction sale under the Code — Acceptance of minor's bid is illegality which vitiates sale — See **Bombay Land Revenue Code (5 of 1879),** Section 165
(Mar) 93

—S. 181 — Auction sale held under the Code — Acceptance of minor's bid is illegality which vitiates sale — See **Bombay Land Revenue Code (5 of 1879),** S. 165
(Mar) 93

Bombay Police Act (22 of 1951), S. 56 (a) — Order of externment — When can be valid — Tests — Constitution of India, Article 19 (1) (d) and (e)
(Oct) 351

Bombay Prevention of Fragmentation and Consolidation of Holdings Act (62 of 1947)

See under Tenancy Laws.

Bombay Public Trusts Act (29 of 1950), S. 70-A (as inserted by Act 59 of 1954) — Section is retrospective in operation
(Oct) 328A

—S. 70-A (as inserted by Act 59 of 1954) — Civil P. C. (1908), Section 115 and Order 41, Rule 27 — Scope of revision under Section 70-A
(Oct) 328B

Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947)
See under Houses and Rents.

Bombay Sales Tax Act (51 of 1959)
See under Sales Tax.

Bombay Tenancy Act (29 of 1939)
See under Tenancy Laws.

Bombay Tenancy and Agricultural Lands Act (67 of 1948)
See under Tenancy Laws.

Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act (99 of 1958)
See under Tenancy Laws.

C. P. and Berar Letting of Houses and Rent Control Order (1949)
See under Houses and Rents.

Civil Procedure Code (5 of 1908), Preamble — Interpretation of Statutes — Taxing statute — Construction — See Court-fees and Suits Valuations — Court-fees Act (1870), S. 1
(Feb) 66B

—Pre. — Interpretation of Statutes — Punctuation marks — Cannot be regarded as controlling factor and cannot be allowed to control plain meaning of text
(Mar) 103D

—Pre. — Statement of Objects and Reasons — Use of — (Interpretation of Statutes)
(Apr) 127D

—Preamble — Interpretation of Statutes — Construction rendering part redundant should be avoided — See Defence of India Act (1939), S. 19 (1) (g) and (e)
(May) 151

—Preamble — Interpretation of Statutes — Principles
(May) 163D

—Preamble — Precedents — Value — Decisions on questions of fact — Cannot be cited as precedents
(Jun) 177E

—Pre. — Interpretation of Statutes — Rule as to
(Jun) 205B

—Pre. — Interpretation of Statutes — Reference to object and intention of legislature
(Jun) 205C

—Pre. — Interpretation of Statutes — Pith and substance — Liberal construction — Duty of Court pointed out — See Constitution of India, Preamble
(Jul) 224B

—Pre. — Precedents — Cases in the English Courts of Chancery have no application to the law of India as laid down in the Evidence Act
(Jul) 231C

—Pre. — Interpretation of Statutes — Proviso — Generally it is an exception to main rule in the section — There can however, be exceptions — Proviso (6) to Section 92, Evidence Act is one of such exceptions
(Jul) 231E

—Pre. — Precedents — Decisions of Canadian Court based on Canadian statute are not binding on Indian Courts in interpreting law based on Indian Statute
(Aug) 255J

—Pre. — Words creating legal fiction — Interpretation — See Industrial Employment (Standing Orders) Act (1946), S. 13A
(Aug) 274D

—Pre. — Precedents — Judgments of Supreme Court and High Courts — Cannot be read out of context — General propositions of law appearing in judgment to be considered having regard to facts and circumstances
(Sep) 302B

—Pre. — Interpretation of Statutes — Words of doubtful meaning — To be understood in a sense which best harmonises with subject and object of enactment — Words used in particular business or transactions — In absence of special meaning words to be understood in popular dictionary sense
(Sep) 310A

—Pre. — Interpretation of Statutes — Retrospective operation — Presumption as to prospective operation, does not apply to

Civil P. C. (contd.)

procedural law — See Bombay Public Trusts Act (29 of 1950), Section 70A (as inserted by Act 59 of 1954) (Oct) 328A

—Pre. — Interpretation of Statutes — Constitutionality — Court can look into facts and events existing at any time of legislation — See Constitution of India, Article 14 (Oct) 333B

—Pre. — Interpretation of Statutes — Penal provision — Has to be strictly construed (Oct) 348B

—Pre. — Interpretation of Statutes — Whenever possible words of any provision should be so interpreted as to bring them in conformity with Fundamental Rights—See Bombay Police Act (22 of 1951), S. 56 (a) (Oct) 351

—Pre. — Precedents — Obiter dicta of Supreme Court — Value of (Nov) 373B

—Pre. — Interpretation of Statutes — Cl. (x) of Section 6 of Bombay Court Fees Act (36 of 1959) is special provision — Cl. (v) of that section does not apply to case falling under clause (x) — See Court Fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), Section 6 (v) & (x) (Nov) 395A

—S. 2 (2) — Award under B. A. D. R. Act, 1947 — Is a decree — See Debt Laws — Bombay Agricultural Debtors' Relief Act (28 of 1947), S. 43 (Feb) 74A

—S. 9 — Exclusion of Civil Court's jurisdiction — S. 19 of Defence of India Act creates special forum — Civil Court's jurisdiction under Arbitration Act is excluded — See Defence of India Act (1939), S. 19 (1) (g) and (e) (May) 151

—S. 9 — Jurisdiction — S. 28 of Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947) bars jurisdiction of Civil Courts — See Houses & Rents — Bombay Rents, Hotel and Lodging House Rates (Control) Act (57 of 1947), S. 28 (Oct) 342

—S. 9 — Suit for injunction — Value of property exceeding Rs. 25,000/- — Suit is beyond jurisdiction of Bombay City Civil Court — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), Section 6 (ix) (Dec) 423C

—S. 10 and O. 37, Rr. 2 and 3 (as amended in Bombay) — Stay of suit — Summary suit — Questions to be decided are not of merits of claim and defence between parties — Defendant need not obtain leave to appear, though such leave is necessary to defend the suit — Appearance by defendant to apply for stay of plaintiff's suit subsequently filed — Leave to appear not necessary (Feb) 40A

—S. 11 — Execution proceedings — Principles of res judicata apply to execution application also — Previous order of High Court dismissing notice under O. 21, R. 16 on ground that application was not made to Court which passed decree — No appeal filed

Civil P. C. (contd.)

against order — Order operates as res judicata (Mar) 84D

—S. 11 — Res judicata — Presidency Small Cause Courts Act (1882) (as it stood prior to amendment by Maharashtra Act 41 of 1963), Ss. 41, 43, 46, 47, 49 — Application for possession on ground that defendant was licensee and licence was withdrawn — Court accepting defendant's plea that he was sub-tenant and dismissing application — Subsequent suit for possession alleging that licence was duly determined not barred by res judicata (Mar) 111A

—S. 11 — Principles of res judicata — Applicability — It must apply with equal vigour to all parties to earlier proceedings (Mar) 111B

—S. 15 — Suit for injunction — Value of property exceeding Rs. 25,000 — Suit is beyond jurisdiction of Bombay City Civil Court — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), Section 6 (ix) (Dec) 423C

—S. 20 (b) — Objection to jurisdiction — Non-compliance with the Section — Objection in written statement to the effect that some of the defendants are staying beyond the jurisdiction of the Court is an objection for non-compliance with the provision — Express plea that plaintiff has failed to comply with provisions not necessary — Failure to so state expressly cannot be construed as acquiescence on part of defendants (Nov) 366A

—S. 20 (b) and O. 14, R. 2 — Objection to jurisdiction in written statement — Application under O. 14, R. 2 for trial of issue as to jurisdiction as preliminary issue — Conduct of the defendants does not amount to acquiescence (Nov) 366B

—S. 20 (b) — Grant of leave — Leave has to be specifically sought — Failure to seek leave-order of Court holding that defendants have acquiesced cannot be construed as one granting leave (Nov) 366C

—Ss. 20 (b) and 96 — Leave to institute a suit — Appellate Court is also competent to grant — It is not necessary that application should have been made in the trial Court (Nov) 366D

—S. 34 — Section is not confined to claim for liquidated damages only — Interest prior to suit cannot be awarded by way of damages — Awarding of interest as from date of filing of suit is discretionary (Nov) 373D

—S. 36 — Execution of award under B. A. D. R. Act, 1947 — Appeal — Maintainability of — See Debt Laws — Bombay Agricultural Debtors' Relief Act (28 of 1947), Section 43 (Feb) 74A

—Ss. 38 and 47 — Executing Court cannot go behind decree — Consent decree — Court cannot enquire whether property charged with payment of decretal claim was not available even at date of decree (Mar) 84E

Civil P. C. (contd.)

—S. 39 — Application for transmission of decree — Not a revival of decree — See Limitation Act (1908), Article 183 (Mar) 84A

—S. 39 — Execution against legal representatives — Essential conditions — See Civil P. C. (1908), Section 50 (Mar) 84J

—S. 47 — Execution of award under B. A. D. R. Act 1947 — Application for execution held not maintainable — Appeal — Maintainability — See Debt Laws — Bombay Agricultural Debtors' Relief Act (28 of 1947), S. 43 (Feb) 74A

—S. 47 and O. 21, R. 11 — Consent decree — Condition in decree that decree-holder shall first exhaust his remedies against properties charged under decree — Execution application against other properties of judgment-debtors not specifying what steps were taken to exhaust remedies against charged properties — Execution held not maintainable (Mar) 84E

—S. 47 — Executing Court cannot go behind the decree — See Civil P. C. (1908), Section 38 (Mar) 84F

—Ss. 50, 39 and O. 21, R. 22 — Execution against legal representatives — Essential conditions (Mar) 84J

—S. 79 — Suit against railways — Purpose of notice — See Railways Act (1890), Section 74E (Dec) 401E

—S. 80 — Suit against railways — Purpose of notice — See Railways Act (1890), Section 74E (Dec) 401E

—S. 96 — Leave under Section 20 (b) — Appellate Court also can grant — See Civil Procedure Code (5 of 1908), Section 20 (b) (Nov) 366D

—Ss. 100 and 101 — Question of fact — Date of institution of suit — Concession regarding the date on which plaintiff lodged the plaint in a suit in accordance with Rr. 104 and 105 of Bombay High Court Original Side Rules — Held that concession related to question of fact and was binding on party in second appeal (Feb) 40B

—Ss. 100-101 — Infringement of Patent is mixed question of law and fact — See Patents and Designs Act (1911), S. 29 (Aug) 255B

—S. 115 — Decree against petitioner — Error apparent on face of record — Petitioner can invoke jurisdiction under Article 227 though it may not be a jurisdictional error entitling him to file a revision under S. 115 Civil P. C. — See Constitution of India, Art. 227 (Feb) 49A

—S. 115 — Manner of enquiry under Bombay Public Trusts Act (29 of 1950) not applicable to revisional applications — See Bombay Public Trusts Act (29 of 1950), S. 70A (as inserted by Act 59 of 1954) (Oct) 328B

—Ss. 122 and 129, O. 6, R. 5 (2) and O. 5, R. 2 (as framed by Bombay under Section 122) — Letters Patent (Bom) Cl. 37

Civil P. C. (contd.)

— Rules framed under Section 122 — Applicability to proceedings on original civil side — Power of framing rules for regulating procedure on original civil side under Sections 122 and 129 C. P. C. and Cl. 37 of Letters Patent — Scope and extent of (Apr) 117A

—S. 129 — Power of framing rules for regulating procedure on original civil side — Scope and extent of — See Civil P. C. (1908), Section 122 (Apr) 117A

—S. 148 — Court has power to extend time fixed by consent order — No distinction between Section 148 and Rule 7 of Companies (Court) Rules (1959) in this respect — Question whether time fixed under a consent order can be enlarged under a particular statutory provision or rule is purely one of law (Oct) 323B

—O. 2, R. 2 — Voluntary relinquishment of claim or part of it — O. 2, R. 2 is not the only provision — Part claim can be relinquished for purposes of pecuniary jurisdiction — See Civil P. C. (1908), O. 23, R. 1 (1) (Nov) 370B

—O. 5, R. 2 (as framed by Bombay High Court under Section 122) — Applicability to proceedings on the Original Side — See Civil P. C. (1908), Section 122 (Apr) 117A

—O. 5, R. 2 (Bombay) — Chamber Summons taken out by defendant, after returnable date of plaintiff's summons — Is not barred under O. 6, R. 5 (2) (Bombay) — See Civil P. C. (1908), O. 6, R. 5 (2) (Apr) 117B

—O. 6, R. 2 — Election petition based on improper rejection or reception of ballot papers — Specification of numbers of such ballot papers in the petition not necessary — See Representation of the People Act (1951), Section 83 (1) (a) (Jun) 177B

—O. 6, R. 5 (2) — Applicability to proceedings on the Original Side of High Court — See Civil P. C. (1908), Section 122 (Apr) 117A

—O. 6, R. 5 (2) and O. 5, R. 2 (Bombay) — Summons, served on defendant, not accompanied by copy of plaint — Chamber Summons taken out by defendant, after returnable date of plaintiff's summons is not barred under O. 6, R. 5 (2) (Apr) 117B

—O. 6, R. 17 — Suit for ejectment under Rent Control Act — Amendment seeking to add additional ground for ejectment — Application for, is admissible — See Houses and Rents — Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), Section 13 (Jun) 194

—O. 6, R. 17 — Abandonment of part of claim — Amendment of plaint not necessary — See Civil P. C. (1908), O. 23, R. 1 (1) (Nov) 370B

—O. 7, R. 10 — Suit for injunction — Prayer for asking defendants to discontinue attachment — Prayer is equivalent to one for setting aside attachment — See Court-fees and Suits Valuations — Bombay Court

Civil P. C. (contd.)

Fees Act (36 of 1959), Section 6 (ix)

(Dec) 423C

—O. 9, R. 13 — Power to dismiss application in default — Duty to restore such application on good cause shown for non-appearance is implied — See Houses and Rents — C. P. and Berar Letting of Houses and Rent Control Order (1949), Cl. 13

(Nov) 393A

—O. 14, R. 2 — Trial of — Issue as to jurisdiction — Application under O. 14, R. 2 for trial of issue as preliminary one — Acquiescence — See Civil Procedure Code (5 of 1908), S. 20 (b)

(Nov) 366B

—O. 21, R. 11 — Consent decree charge on certain properties — Execution application against other properties — Maintainability — See Civil P. C. (1908), S. 47

(Mar) 84E

—O. 21, R. 16 — Application for execution by transferee of decree — Formal order or at least recognition by Court that applicant is transferee of decree is necessary in either kind of transfer contemplated by rule

(Mar) 84C

—O. 21, R. 16 — Transfer by operation of law — Effect of sanction of scheme of amalgamation under Section 44-A, Banking Companies Act — Transfer and vesting takes place by virtue of sanction — No separate order necessary — O. 21, R. 16 applies — But under Section 153-A (2), Companies Act separate order is necessary for vesting and transfer

(Mar) 84B

—O. 21, R. 22 — Execution against legal representatives — Essential conditions — See Civil P. C. (1908), Section 50

(Mar) 84J

—O. 21, R. 89 — Limitation Act (1908), S. 4 and Art. 166 — Limitation Act (1963), S. 4 and Article 127 — Application to set aside execution sale — Requirements — Limitation for application not prescribed by R. 89 but by Article 166, Limitation Act — Limitation expiring during vacation — Application filed on re-opening day — Section 4, Limitation Act, applies

(Mar) 90

—O. 21, Rr. 97 and 103 — Procedure prescribed by O. 21, Rr. 97 to 102 is summary and is not intended for decisions after hearing oral evidence — Conclusion arrived at is subject to result of suit under O. 21, R. 103 — Findings made by Single Judge of High Court on chamber summons in application for possession under O. 21, Rr. 97 to 102 — Appeal under Cl. 15 Letters Patent (Bom.) — Division Bench would not interfere with those findings — Proper remedy is to file regular suit under O. 21, R. 103 — Whether order of Single Judge amounts to judgment (Quære)

(Dec) 447

—O. 21, R. 103 — Procedure prescribed by O. 21, Rr. 97 to 102 is summary — Conclusion arrived at is subject to result of suit under O. 21, R. 103 — See Civil P. C. (1908), O. 21, R. 97

(Dec) 447

—O. 23, R. 1 (1); O. 2, R. 2 and O. 6, R. 17 — Scope — Valuation of suit found

Civil P. C. (contd.)

to be beyond pecuniary jurisdiction of Court — Abandonment of part of claim — Amendment of plaint not necessary — Procedure indicated

(Nov) 370B

—O. 32, R. 3 — Proceeding against minor — Court must appoint guardian

(Nov) 893B

—O. 34, Rr. 7, 8 — Redemption suit — Preliminary decree — Modified in appeal — Final decree proceedings still pending before

appellate Court — Fact of modification brought to its notice — In determining the amount due on mortgage, the Appellate Court must take into account the modification and fix a fresh period for payment of that amount

(Nov) 397

—O. 34, R. 8 — Preliminary decree — Modified in appeal — Final decree proceedings pending — Fact of modification has to be taken into account — See Civil P. C. (1908), O. 34, R. 7

(Nov) 397

—O. 37, R. 2 — Stay of suit — Summary suit — Leave to appear not necessary — See Civil P. C. (1908), Section 10

(Feb) 40A

—O. 37, R. 3 — Stay of suit — Summary suit — Leave to appear not necessary — See Civil P. C. (1908), S. 10

(Feb) 40A

—O. 41, R. 27 — Manner of enquiry under Section 70-A of Bombay Public Trusts Act (29 of 1950) analogous to O. 41, R. 27 — See Bombay Public Trusts Act (29 of 1950), S. 70A (as inserted by Act 59 of 1954)

(Oct) 328B

—O. 41, R. 1 — Pleadings — Suit against Railway by Plaintiff 1, the consignee and plaintiff 2 as subrogee of rights of plaintiff 1 — Railway, in their pleading denying subrogation — In appeal against decree in favour of plaintiff 1, Railway cannot utilise plaintiff's allegation of subrogation as ground for non-suiting plaintiffs — See Evidence Act (1872), Section 115

(Dec) 401C

—O. 41, R. 2 — Pleadings — Suit against Railway by plaintiff 1, the consignee and plaintiff 2 as subrogee of rights of plaintiff 1 — Railway in their pleading denying subrogation — In appeal against decree in favour of plaintiff 1, railway cannot utilise plaintiff's allegation of subrogation as ground for non-suiting plaintiffs — See Evidence Act (1872), Section 115

(Dec) 401C

—O. 41, R. 33 — Hearing of appeal — Duty of Court — See Constitution of India (as amended by Constitution (Fifteenth Amendment) Act (1963), Art. 226 (1A)

(Sep) 315

Companies Act (7 of 1913), S. 109 — Consent decree creating charge on property of Company not registered — Effect — Charged properties in possession of decree-holder or persons on their behalf — Liquidator or any other creditor not challenging charge as void — Decree-holder entitled to proceed against charged property

(Mar) 84G

—S. 153A (2) — Transfer by operation of law — Amalgamation of Banks — Transfer

Companies Act (1913) (contd.)

or vesting takes place by separate order of the Court under the section — See Civil P. C. (1908), O. 21, R. 16 (Mar) 84B

Companies Act (1 of 1956), S. 439 (8) — Order admitting winding up petition — Nature of — It is merely a procedural order and not a final order (Oct) 323C

—Ss. 446, 537 — Suit for ejectment against company under liquidation — Filing of, with permission of winding up Court — Application for amendment in plaint — Fresh permission is not necessary (Jun) 194A

—S. 537 — Suit for ejection of Company in liquidation — Permission to file from winding up Court not necessary — See Companies Act (1956), S. 446 (Jun) 194A

Companies (Court) Rules (1959), R. 7 — Words 'any order' are wide enough to include an order made by consent of parties (Oct) 323A

—R. 7 — Power of Court to extend time under self-operating consent order relating to admission of winding up petition — Held in circumstances of case Court would exercise its discretion in favour of company by giving extension of time for payment of defaulted instalment (Oct) 323D

Conduct of Elections Rules (1961), R. 53 — Inspection of ballot papers — When can be ordered — See Representation of the People Act (1951), S. 83 (1) (a) (Jun) 177G

—R. 53 (4) — Election petition based on improper reception or rejection of ballot papers — Giving numbers of such ballot papers not necessary — See Representation of the People Act (1951), S. 83 (1) (a) (Jun) 177B

—R. 53 (4) — Right of inspection of ballot papers — Scope — See Representation of the People Act (1951), S. 94 (Jun) 177D

—R. 54 — Right of inspection of ballot papers — Scope of — See Representation of the People Act (1951), S. 94 (Jun) 177D

—R. 56 — Inspection of ballot papers — When can be ordered — See Representation of the People Act (1951), S. 83 (1) (a) (Jun) 177G

—R. 56 (3) — See Representation of the People Act (1951), S. 83 (1) (a) (Jun) 177B

—R. 56 (3) — Right of inspection of ballot papers under — Scope of — See Representation of the People Act (1951), S. 94 (Jun) 177D

—R. 56 (6) (as amended in 1964) — Presumption as to validity of ballot papers — Has reference to those papers only which are not rejected but taken into accounting — Ballot papers rejected by Returning Officer — There is no presumption that they are validly rejected (Jun) 177C

—R. 60 — See Representation of the People Act (1951), S. 83 (1) (a) (Jun) 177B

Conduct of Elections Rules (contd.)

—R. 60 — Right to inspect ballot papers — Scope of — See Representation of the People Act (1951), S. 94 (Jun) 177D

—R. 93 — Inspection of ballot papers — When can be ordered — See Representation of the People Act (1951), S. 83 (1) (a) (Jun) 177A

—R. 93 — See Representation of the People Act (1951), S. 83 (1) (a) (Jun) 177B

—R. 93 — Inspection of ballot papers — When can be ordered — See Representation of the People Act (1951), S. 83 (1) (a) (Jun) 177G

Constitution of India, Pre. — Article 246 — Construction of Articles and Lists of Constitution — Rule of pith and substance — Civil P. C. (1908), Pre. — Interpretation of Statutes (Jul) 224B

—Pre. — Presumption in favour of Constitutionality of legislation — See Constitution of India, Art. 14 (Oct) 333B

—Art. 12 — State — Expression "other authorities" in Article 12 — Meaning of — Test to determine — Life Insurance Corporation of India — Nature of — Does not come within expression 'other authorities' and is not a State — Life Insurance Corporation Act (1956), Ss. 3, 6 (Oct) 337A

—Art. 14 — Fixation of selling at much higher rate than controlled rate under proviso to Clause 27 (2) of Iron and Steel Control Order 1956 — Vires of proviso not challenged — Order not violative of the Article — See Iron and Steel Control Order (1956), Clause 27 (2) Proviso (May) 164H

—Art. 14 — Houses and Rents — Bombay Housing Board Act (69 of 1948), Ss. 53-A, 53-B, 53-C and 53-D — Distinction made between premises of Housing Board and those belonging to private citizens is reasonable and based on intelligible differentia between two classes — No violation of Article 14 (Oct) 333A

—Arts. 14, 245 — Houses and Rents — Bombay Housing Board Act (69 of 1948), Ss. 53-A, 53-B, 53-C, 53-D — Validity — Introduction of Chapter VA — Effect — Housing Board given option to proceed under the Act against some occupants and to file civil suit against others — No question of discrimination there being no chance of Board's filing civil suit against any occupant (Oct) 333B

—Art. 19 (1) (d) and (e) — Words "alarm, danger or harm" in Section 56 of Bombay Police Act (22 of 1951) — Apply to alarm etc. to general public and not to individuals — Externment order — Area of externment must have reference to purpose of externment — Or else it would be contrary to Article 19 (1) (d) and (e) — See Bombay Police Act (22 of 1951), Section 56 (a) (Oct) 351

—Art. 19 (1) (g) — Price of iron scrap fixed at higher rate than controlled rate —

Constitution of India (contd.)

Purchaser compelled selling it at loss — Order does not contravene Article 19 (1) (g) — See Iron and Steel Control Order (1956), Clause 27 (2) proviso (May) 163I

—Art. 141 — Observations in Supreme Court judgment — Every observation does not make law (Sep.) 294B (F.B.)

—Art. 141 — Obiter dicta of Supreme Court — Value of — See Civil P. C. (1908), Preamble (Nov) 373B

—Arts. 226 and 227 — Disputed questions of fact which can best be settled in suit or application under Sec. 20 Minimum Wages Act cannot be raised or settled in application under Articles 226 and 227 — Authority under Minimum Wages Act acting within his authority and in proper exercise of his discretion under second proviso to Section 20 (2) condoning delay in applying under Section 20 — High Court refused to interfere (Sep) 310C

—Art. 226 — Against whom writ lies — Powers of High Court — Employee of Life Insurance Corporation of India — Dismissal from service — Law of Master and Servant applies — Alternative remedy of suit — No writ of declaration can be issued against Corporation (Oct) 337C

—Arts. 226, 227 — Error apparent on face of record — Proceeding under Cl. 13 of C. P. and Berar Letting of Houses and Rent Control Order (1949) — Ex parte order granting permission to terminate tenancy — Application for setting aside that order rejected without opportunity being given to tenants to substantiate their claim — Order neither supportable on ground of tenability nor on merits — Order held vitiated by errors apparent on face of record — Order set aside and parties directed to appear before Rent Controller (Nov) 393C

—Arts. 226 and 227 — Application challenging decision in election petition under S. 27 of Maharashtra Act (5 of 1962) — Scrutiny of votes is a question of fact — High Court is not sitting in appeal over Judge designated to hear election petitions and would not be justified in interfering with the finding of fact (Dec) 433B

—Art. 226 (1A) (as amended by Constitution (Fifteenth Amendment Act 1963)) — Extension of High Court's jurisdiction by amending Art. 226 on 5th Oct. 1963 — Dismissal of petition prior to amendment — Appeal after 5th Oct. 1963 — Appeal cannot be dismissed on ground that original petition was not maintainable for want of jurisdiction prior to amendment (Sep) 315

—Art. 227 — Error apparent on face of record — Petitioner aggrieved by a decree against him can invoke the jurisdiction of the High Court under Article 227 if there is an error apparent on face of record though it may not be a jurisdictional error entitling him to file a revision under Section 115, Civil P. C. (Feb) 49A

Constitution of India (contd.)

—Art. 227 — Discretion of High Court — Contractual tenant illegally dispossessed by landlord — Tenant's suit for restoration of possession dismissed by both lower Courts — Suit premises demolished and in its place new premises coming into existence in course of litigation — High Court would not interfere under Article 227 when an order for possession in favour of tenant would be unexecutable and infructuous and especially when he flatly refused to deposit arrears of rent as ordered by Court (Mar) 103F

—Art. 227 — Finding of fact not based on material on record — Interference under Article 227 is proper (Apr) 119D

—Art. 227 — Disputed question of fact — Settlement possible under Section 20 Minimum Wages Act — Not to be raised in Writ proceedings — See Constitution of India, Art. 226 (Sep) 310C

—Art. 227 — 'Tribunal' — Zonal Manager of Life Insurance Corporation is not a tribunal — Life Insurance Corporation Act (1956), Section 22 (Oct) 337D

—Art. 227 — See Constitution of India, Art. 226 (Nov) 393C

—Art. 245 — Delegation — Executive apparently given unguided discretion by Statute — Court not to strike down legislation but should examine principle and policy of statute — See Constitution of India, Art. 14 (Oct) 333B

—Art. 246 — Interpretation of Statutes — Pith and substance, rule of — See Constitution of India, Preamble (Jul) 224B

—Art. 254 (2) — S. 53-A of Bombay Housing Board Act (69 of 1948) abrogates provisions of T. P. Act by providing contrary to T. P. Act (1882), S. 111 (g) and (h) — Section 53-A is valid — See Houses and Rents — Bombay Housing Board Act (69 of 1948), S. 53A (Oct) 333C

—Art. 299 — Contract under — Formal document not necessary — Contract contained in correspondence made by and with duly authorised person on behalf of President of India is valid (May) 163B

—Art. 311 — Applicability — Life Insurance Corporation of India not being a 'State' Art. 311 does not apply to its employees — (Point conceded) (Oct) 337B

Contract Act (9 of 1872), S. 2 — Applicability of definition of good faith in General Clauses Act 1897 — See General Clauses Act (1897), S. 3 (22) (Apr) 127C

—S. 2 (a) — 'Offers for sale' — Meaning of — See Criminal P. C. (1898), S. 177 (Sep) 302D

—S. 2 (d) and (e) — Agreement not to file appeal against ejectment decree if tenant given time to vacate — There is good consideration for agreement — See Contract Act (1872), S. 28 (Jul) 221

—S. 2 (h) — Notice of claim by consignee after being paid by insurer of goods — Contract between consignee and railway

Contract Act (contd.)

not affected — See Railways Act (1890), S. 77 (old) (Dec) 401D

—S. 7 — Contract to purchase several tons of iron scrap belonging to Government — Is concluded on acceptance of purchaser's tender — Condition for payment of price does not make the contract conditional — See Contract Act (1872), S. 10 (May) 163A

—Ss. 10, 7 — Contract to purchase several tons of iron scrap belonging to Government — Contract is concluded on acceptance of purchaser's tender — Condition for payment of price for approximate quantity in advance does not make contract conditional — Absence of express condition for payment for excess or refund for less quantity on actual weightment — Doctrine of implied terms can be invoked (May) 163A

—Ss. 28, 2 (d) and (e) — Decree for eviction — Execution — Decree-holder accepting representation of tenant not to pursue remedy by way of appeal if time granted to vacate — Agreement reduced to writing — Agreement held not hit by S. 28 — It was a good consideration — Tenant, held, not entitled to prosecute appeal filed in contravention of agreement (Jul) 221

—S. 69 — Payment — Claim notice by consignee after being paid by insurer of goods — Contract between consignee and railway not affected — See Railways Act (1890), S. 77 (old) (Dec) 401D

—S. 73, Explanation — Rule in regard to mitigation of damages — Construction (Nov) 373A

—S. 73, Explanation — Contract of employment for a fixed period — Breach of, by employer — Employee is entitled to salary for whole of unexpired period of service — Existence of mitigating circumstances — Burden of proof — AIR 1938 All 276 and AIR 1943 Oudh 17 and AIR 1963 Madh Pra 242 and AIR 1964 Mad 183, Dissented From (Nov) 373C

—S. 151 — Responsibility of railways as carriers is that of bailees subject to Railways Act — See Railways Act (1890), S. 74-E (old) (Dec) 401A

—S. 152 — Responsibility of railways as carriers is that of bailees under Railways Act — See Railways Act (1890), S. 74-E (old) (Dec) 401A

—S. 161 — Responsibility of railways as carriers is that of bailees subject to Railways Act — See Railways Act (1890), S. 74-E (old) (Dec) 401A

—S. 226 — Negligence of contractors and engineers — Liability of the Municipality as principal — See Municipalities — Bombay District Municipal Act (3 of 1901), S. 167 (Apr) 127H

CO-OPERATIVE SOCIETIES

—Maharashtra Co-operative Societies Act (24 of 1961), S. 91 — Maharashtra Co-operative Societies Rules (1961), R. 76 — Appointment

Co-operative Societies — Maharashtra Co-operative Societies Act (contd.)

of nominees — Appointment is not for any particular period (Feb) 54A

—Maharashtra Co-operative Societies Rules (1967), R. 76 — Appointment of nominees — Is not for any particular period — See Co-operative Societies — Maharashtra Co-operative Societies Act (24 of 1961), S. 91 (Feb) 54A

—R. 77 — Is permissive and not peremptory (Feb) 54B

Court Fees Act (7 of 1870)

See under Court-fees and Suits Valuations.

COURT-FEES AND SUITS VALUATIONS

—Bombay Court Fees Act (36 of 1959), S. 6 (iv) (d) — Suit, not for a declaration but for injunction only — S. 6 (iv) (d) has no application (Dec) 423B

—S. 6 (iv) (j), Sch. I Arts. 1 and 7 — Declaratory suit by creditor under S. 53 T. P. Act — Declaration that deed of assignment executed by defendant was void — Proper Court-fee would be under Section 6 (iv) (j) (Feb) 66A

—S. 6 (v) and (x) — Applicability — Suit for recovery of possession of mortgaged property from mortgagee — Clause (x), being a special provision relating to recovery of possession from mortgagee, would apply — In view of general principles of construction, general Cl. (v) must apply to all cases except those falling within Cl. (x) (Nov) 395A

—S. 6 (ix), Sch. II Art. 23 (f) — Suit for injunction — Prayer for asking defendants to discontinue attachment — Prayer is equivalent to prayer for setting aside attachment — Suit falls under Section 6 (ix) — Civil P. C. (1908), Sections 15, 9, O. 7, Rule 10 — Value of property exceeding Rs. 25,000 — Suit is beyond jurisdiction of Bombay City Civil Court even assuming that suit falls under Article 23 (f) of Sch. II — Suit held to be within jurisdiction of Bombay High Court on its original side under Cl. 12 of Letters Patent (Dec) 423C

—S. 6 (x) and (v) — Transfer of Property Act (1882), Section 62 — Suit for recovery of possession of mortgaged property from mortgagee — Covered by Cl. (x) — Even if technically the suit may not be a redemption suit under Section 62, T. P. Act, relating to substantive rights of parties, for purposes of Court-fees Act it does not make any distinction between a suit for possession simpliciter from mortgagee on ground that the mortgage is satisfied and a suit for redemption as such (Nov) 395B

—Sch. I Art. 1 — Declaratory suit by creditor under Section 53, T. P. Act — Proper Court-fee would be under Section 6 (iv) (j) — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), S. 6 (iv) (j) (Feb) 66A

Court-fees and Suits Valuations — Bombay

Court-fees Act (contd.)

—Sch. I, Art. 7 — Declaratory suit by creditor under Section 53, T. P. Act — Proper Court-fee would be under S. 6 (iv) (j) — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), S. 6 (iv) (j) (Feb) 66A

—Sch. II, Art. 23 (f) — Suit for injunction — Value of property exceeding Rs. 25,000 — Suit is beyond jurisdiction of Bombay City Civil Court, even assuming suit falls under Article 23 (f) of Sch. II — See Court-fees and Suits Valuations — Bombay Court-fees Act (36 of 1959), S. 6 (ix) (Dec) 423C

Court Fees Act (7 of 1870), S. 1 — Court Fees Act is a taxing statute and its provisions are to be strictly construed in favour of subject litigant (Feb) 66B

—S. 12 — Suit for possession of restaurant with all the fittings, furniture etc. mentioned in plaint — Enquiry into value of subject-matter of suit should be limited to those articles claimed in plaint — Valuation Officer cannot include in his report valuation of articles not claimed in plaint (Nov) 370A

Suits Valuation Act (7 of 1887), S. 3 — Suit for injunction — Value of property exceeding Rs. 25,000 — Suit is beyond jurisdiction of Bombay City Civil Court — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), S. 6 (ix) (Dec) 423C

—S. 4 — Suit for injunction — Value of property exceeding Rs. 25,000 — Suit is beyond jurisdiction of Bombay City Civil Court — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), S. 6 (ix) (Dec) 423C

Copy-right Act (14 of 1957), Pre. — Interpretation of Act — English statute and decision, how far an aid (Sep) 302C

—S. 51 (b) (i) — Offence when constituted — See Criminal P. C. (1898), S. 177 (Sep) 302D

—S. 62 — Offence under Copy-right Act — Place of trial to be determined according to Sections 177 to 188 Criminal P. C. — See Criminal P. C. (1898), S. 5 (2) (Sep) 302A

—S. 69 — Scope — Criminal liability of firm and its partners for offences under the Act — Complaint against firm and its partners is maintainable in law (Sep) 302E

—Chap. XIII — Offence under Copy-right Act — Place of trial to be determined according to Secs. 177 to 188, Criminal P. C. — See Criminal P. C. (1898), S. 5 (2) Sep 302A

Criminal Procedure Code (5 of 1898), Sections 5 (2) and 177 — Offences under Copy-right Act, 1957 — Place of trial — No specific provision in Copy-right Act with regard to place of trial or where complaints are to be filed regarding criminal offences though

Criminal P. C. (contd.)

there is specific provision in Section 62 relating to place of suing in a civil proceeding — Place of trial to be determined in accordance with provisions of Ss. 177 to 188 Criminal P. C. (Sep) 302A

—Ss. 6-A, 13, 37, 164 and Sch. 4 (as amended by Bombay Acts Nos. 23 of 1951 and 34 of 1953) — Effect of amendment — Unless State Government invests Taluka Magistrate with powers under Section 164 any statement recorded by such Magistrate will be inadmissible in evidence (Jan) 189

—S. 13 — Taluka Magistrate not invested with powers under Section 164 — Any statement recorded by him would be inadmissible — See Criminal P. C. (1898), S. 6-A (Jun) 189

—S. 32 — Conviction under Sections 7 and 16 of Prevention of Food Adulteration Act — Sentence should be minimum prescribed — See Prevention of Food Adulteration Act (1954), S. 16 (Nov) 360

—S. 37 — Taluka Magistrate not invested with powers under Section 164 — Any statement recorded by him would be inadmissible — See Criminal P. C. (1898), S. 6-A (Jun) 189

—S. 103 — Power of Food Inspector under Section 10 — Prevention of Food Adulteration Act, to enter premises for taking samples — Power is similar to that of Police Officer under Section 103 Criminal P. C. — See Prevention of Food Adulteration Act (1954), S. 10 (7) (Nov) 353A

—S. 128 — Powers of police to arrest persons rioting — Extent of — See Criminal P. C. (1898), S. 207-A (Nov) 383C

—S. 164 — Statement recorded by a Taluka Magistrate not invested with powers under the section — Effect of — Statement recorded by him is inadmissible in evidence — See Criminal P. C. (1898), S. 6-A (Jun) 189

—S. 173 — Assistant to Special Police Officer filing charge sheet under Suppression of Immoral Traffic in Women and Girls Act (1956) — Court can take cognizance — See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 13 (Aug) 285

—S. 177 — Offence under Copy-right Act — Place of trial to be determined according to Sections 177 to 188 — See Criminal P. C. (1898), S. 5 (2) (Sep) 302A

—S. 177 — Place of commission of offence — Copy-right Act (1957), S. 51 (b) (i) — Offence under — When constituted — Expression "offers for sale" — Interpretation of — Includes advertisement in a journal or newspaper — 'Offer for sale' must be deemed to have been made at place where advertisement reaches for circulation — Magistrate at that place has jurisdiction to entertain complaint (Sep) 302D

—S. 190 (1) (b) — Assistant to Special Police Officer submitting charge sheet for offences under Sections 3 (1), 4 (1) and 5 (1) (d) — Magistrate can take cognizance —

Criminal P. C. (contd.)

See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 13 (Aug) 285

—Ss. 207-A, 128 and 213 — Powers of police to arrest persons rioting — Order of commitment — Evidence required (Nov) 383C

—S. 213 — Commitment under section — No evidence establishing prima facie case — Order can be set aside under S. 215 — See Criminal P. C. (1898), S. 215 (Nov) 383A

—S. 213 — Order of commitment — Satisfaction of Magistrate — See Criminal P. C. (1898), S. 207-A (Nov) 383C

—Ss. 215, 213 — Commitment by Magistrate — No evidence establishing prima facie case — Order can be set aside by High Court (Nov) 383A

—S. 222 — Conviction for criminal breach of trust — Subsequent prosecution for different sums during the period covered earlier — Subsequent trial not barred. AIR 1917 Mad 524, Dissented from — See Criminal P. C. (1898), S. 403 (Jan) 1A

—S. 234 — Conviction for criminal breach of trust — Subsequent prosecution for different sums during the period covered earlier — Subsequent trial not barred. AIR 1917 Mad 524, Dissented from — See Criminal P. C. (1898), S. 403 (Jan) 1A

—S. 263 — Recording of evidence — Duty of Magistrate — Effect of amendment by Act 26 of 1965 — See Criminal P. C. (1898), S. 439 (Jun) 199

—S. 264 — Recording of evidence — Duty of Magistrate — Effect of amendment by Act 26 of 1955 — See Criminal P. C. (1898), S. 439 (Jun) 199

—S. 342 — Trial for offence under Prevention of Food Adulteration Act — Conviction based on statement under S. 342 is improper — See Prevention of Food Adulteration Act (1954), S. 16 (1) (a) (i) (Nov) 353C

—S. 350 proviso — Discretion of Magistrate in recalling and examining witnesses under — Can be exercised by the High Court — See Criminal P. C. (1898), S. 439 (Jun) 199

—S. 355 — Evidence or substance thereof recorded by a Magistrate whether in a summary trial or regular trial — Can be made use of by the Magistrate who recorded it or by one who succeeds him — See Criminal P. C. (1898), S. 439 (Jun) 199

—S. 367 (5) (as amended by Act 26 of 1955) — Amendment omitting old sub-section (5) — Effect — Sentence left to discretion of Court — Reasons must be stated for imposing either sentence — AIR 1968 Bom 127 and AIR 1966 Bom 179, Overruled; AIR 1960 All 748, Dissented from (Sep) 294A(FB)

—Ss. 403, 561A, 222 and 234 — Conviction for criminal breach of trust — Subsequent prosecution for different sums during

Criminal P. C. (contd.)

the period covered earlier — Subsequent trial not barred. AIR 1917 Mad 524, Dissented from (Jan) 1A

—S. 439 — High Court, in revision, cannot disturb concurrent finding of fact (Jan) 20A

—Ss. 439, 350, Proviso, 355, 263 and 264 — Rehearing of evidence not necessary in every case sent back to Magistrate — Discretion of Magistrate in recalling and examine witnesses under proviso to Section 350 can be exercised by High Court (Jun) 199

—S. 439 — Order of commitment — Revision — Allegations that supplementary statements as to identification were recorded by police — Held that the High Court would not enter into the merits as it would be appreciating evidence which was not permissible at that stage (Nov) 383D

—S. 561A — Conviction for criminal breach of trust — Subsequent prosecution for different sums during the period covered earlier — Subsequent trial not barred — High Court can disallow subsequent prosecution — See Criminal P. C. (1898), S. 403 (Jan) 1A

—S. 561A — Scope — Power can be exercised to quash proceedings (Jan) 1B

—Sch. 4 (as amended by Bombay Acts Nos. 23 of 1951 and 34 of 1953) — Investment of powers — See Criminal P. C. (1898), S. 6-A (Jun) 189

DEBT LAWS

—Bombay Agricultural Debtors' Relief Act (28 of 1947), S. 38 — Execution of award — Order holding that execution application not maintainable is appealable. (1957) 59 Bom LR 610, Overruled — See Debt Laws — Bombay Agricultural Debtors' Relief Act (28 of 1947), S. 43 (Feb) 74A

—S. 38 (3) — Award allowing debtor to make payments by instalments with direction that amount paid by instalments to be first utilised in discharging dues of mortgagees and then for satisfaction of unsecured creditors by rateable distribution of subsequent instalments — Failure by debtor to pay first instalment on stipulated date — Unsecured creditor not disentitled from applying for execution of award merely because mortgagees have not yet recovered amount due to them (Feb) 74B

—Ss. 43, 46 and 38 — Execution of award — Order that satisfaction alleged by debtor was not proved or that execution application is not maintainable is appealable — (1957) 59 Bom LR 610, Overruled (Feb) 74A

—S. 46 — Execution of award — Order holding execution application not maintainable is appealable. (1957) 59 Bom LR 610, Overruled — See Debt Laws — Bombay Agricultural Debtors' Relief Act (28 of 1947), S. 43 (Feb) 74A

Deed — Construction — See (1) Evidence Act (1872), S. 91; (2) T. P. Act (1882), S. 8

Defence of India Act (35 of 1939), S. 19 (1) (g) and (e) and Rules under Section — Interpretation of — Operative portion of Cl. (1) (e) of the section excludes application of other laws to "arbitrations" under the section — Exclusion is not confined to only provisions relating to actual assessment of amount of compensation — "Law for the time being in force", indicate indefinite future and not only law in force at time of passing of the Act — Section 19 and rules thereunder form a complete code for determining compensation by arbitration under Section 19 and no other law was to affect these provisions — Arbitration Act (1940) falls within the expression and does not apply to award made under Section 19 — Section 14 of Arbitration Act being inconsistent with provisions of Section 19, does not apply to award under Section 19, by reason of exception in Section 46, Arbitration Act — Award under Section 19 cannot be set aside under Arbitration Act — Court has no jurisdiction to entertain application under Section 14 (2), Arbitration Act in respect of an award under Section 19 (May) 151

Employees' Provident Funds Act (19 of 1952) — S. 1 (3) (b) — Government Notification No. GSR 346, D/- 7-3-62 — Trading or Commercial establishment — Concerns selling only goods manufactured by them fall within 'Trading or Commercial establishment' within the meaning of the notification (Mar) 95B

— S. 1 (3) (b) and (a) — Expression "any other establishment" refers to any establishment not falling under Clause (a) whether it is a factory or not. AIR 1967 Madh Pra 157, Dissented from (Mar) 95C

Essential Commodities Act (10 of 1955), S. 3 (2) (c) — Scrap hoops held by Regional Director, Ministry of Food — Fixation of its selling price by Iron and Steel Controller at much higher rate than controlled price is valid and does not violate the provisions of the Essential Commodities Act, 1955 — See Iron and Steel Control Order (1956), Cl. 27 (2) proviso (May) 163C

— S. 7 — Storing of foodgrains by dealer — Presumption that it is for sale — Prosecution still to prove that it was for sale — See Maharashtra Food Grains Dealers Licensing Order 1963, Clause 3 (2) (Feb) 71

— S. 7 (1) (a) (1) — Condition in license requiring wholesaler to maintain register — Breach of condition — Prosecution failing to establish that wholesaler was in fact selling to retailers — Wholesaler has not committed breach of provisions of Section 7 (1) (a) (1) — See Maharashtra Food Grains Dealers Licensing Order 1963, Clause 3 (Feb) 70

Evidence Act (1 of 1872), S. 3 — Trial for offence under Prevention of Food Adultera-

Evidence Act (contd.)

tion Act — Contravention of provisions of Act and Rules alleged — Witness not examined by Food Inspector — Benefit of doubt to accused — See Prevention of Food Adulteration Act (1954), Section 10 (7)

(Nov) 353B

— S. 18 — Information obtained from counsel across the bar — Counsel can state that he is unable to supply information for want of material — If counsel chooses to give information as to facts it amounts to admission so far as it goes against interest of party — Information so obtained must form part of record in so far as it contains statements as to facts

(Jan) 24A

— S. 58 — Facts admitted need not be proved — See Patents and Designs Act (1911), S. 29 (Aug) 255C

— S. 58 — Facts admitted in pleadings — No need to lead evidence to prove them — See Patents and Designs Act (1911), S. 29 (Aug) 255D

— Ss. 91 to 98 — Terms of document — Construction — Extrinsic evidence — Admissibility (Jul) 231A

— S. 92, Proviso (6) — Scope — Proviso is of exceptional nature and is of a substantive nature itself — It is not an exception to the rule laid down in the main part of the section (Jul) 231D

— S. 92, Proviso (6) — Proviso (6) is an exception to main rule in the section — See Civil P. C. (1908), Preamble (Jul) 231E

— Ss. 101-104 — Proprietorship of trade mark — Burden of establishing proprietorship of trade mark lies on applicant — It is for applicant to satisfy court as to his user (Jan) 24C

— Ss. 101-104 — Onus of proving that a trade mark is not calculated to deceive or cause confusion is on applicant — See Trade and Merchandise Marks Act (1958), S. 11 (a) (Jan) 24D

— S. 101 — Infringement of Patent — Burden of proof on plaintiff — See Patents and Designs Act (1911), Section 29 (Aug) 255C

— S. 101 — Onus of proving invalidity of Patent is on defendant — See Patents and Designs Act (1911), Section 29 (2) (Aug) 255E

— S. 103 — Breach of contract of employment by employer — Liability for payment of salary — Existence of mitigating circumstances — Burden of proof — See Contract Act (1872), Section 73 Explanation (Nov) 373C

— S. 105 — Total denial of offence, plea of, by accused — It is open to them to raise alternative plea of right of private defence, if the same can be proved on the strength of prosecution evidence itself — See Penal Code (1860), S. 96 (Jan) 20B

— S. 106 — Infringement of Patent — Defendant to prove his process of manufac-

Evidence Act (contd.)

ture was different — Matter is especially within his knowledge — See Patents and Designs Act (1911), Section 29

(Aug) 255C

—S. 106 — Breach of contract of employment by employer — Salary payable to employee — Existence of mitigating circumstance — Burden of proof — See Contract Act (1872), Section 73 Explanation

(Nov) 373C

—S. 106 — Railways Act (1890), S. 74E (old) — Wagon catching fire in transit — Negligence of Railway servant is presumed — Railway administration must prove how wagon was handled on way — See Railways Act (1890), Section 74 (E) (Old)

(Dec) 401A

—S. 114 — Infringement of Patent — Defendant admitting production of same drug — Presumption of infringement against defendant — See Patents and Designs Act (1911), S. 29

(Aug) 255C

—S. 114 — Goods booked on Central Railway — Destination on S. E. Railway — Presumption in respect of notice sent by ordinary post — See Railways Act (1890), S. 74E

(Dec) 401E

—S. 114, Ill. (e) — Official acts — Presumption as to regularity — Extent of — Absence of negligence in carrying out public work not presumed

(Apr) 127F

—S. 115 — Agreement not to file appeal against eviction decree, if tenant given time — Time given — Tenant is precluded from filing appeal — See Contract Act (1872), S. 28

(Jul) 221

—S. 115 — Delay in filing action must prejudice defendant so as to disentitle plaintiff to the relief claimed — See Patents and Designs Act (1911), Section 29

(Aug) 255A

—S. 115 — Doctrine of estoppel — Essential conditions for attracting doctrine

(Oct) 323E

—S. 115 — Pleadings — Suit against Railways by plaintiff 1 the consignee and plaintiff 2 the insurer as subrogee of rights of plaintiff 1 — Railway, in their pleading, denying the subrogation and the right of plaintiff 2 — In appeal against decree in favour of plaintiff 1, Railway cannot turn round and utilise allegations of subrogation made by plaintiffs, as ground for non-suiting plaintiffs

(Dec) 401C

General Clauses Act (10 of 1897), S. 3 (22)

— Good faith — Implication and connotation — See Municipalities — Bombay District Municipal Act (3 of 1901), Section 167

(Apr) 127B

—S. 3 (22) — Acts prior to 1897 — Applicability of definition of good faith — (Contract Act (1872), Section 2) — (T. P. Act (1882), S. 3)

(Apr) 127C

—S. 21 — Applicability — Fixation of special selling price for specified stock of iron scrap under Clause 27 (2) Proviso of

General Clauses Act (contd.)

Iron and Steel Control Order — Section 21 is inapplicable — See Iron Steel Control Order (1956), Clause 27 (1), (2) proviso

(May) 163J

Government of India Act (1935) (26 Geo. V 1 Edw VIII c 2.), Sec. 100 — Central Legislature was competent to enact Import and Export (Control) Act 1947 — See Imports and Exports (Control) Act (1947), Section 3

(Jul) 224A

—List 1, Entry 19 — Import and Export (Control) Act 1947 and Import (Control) Order (1955) are covered by Entry 19 — See Imports and Exports (Control) Act (1947), Section 3

(Jul) 224A

HIGH COURT RULES AND ORDERS

—**Bombay High Court Original Side Rules R. 104** — Date of institution of suit — Question of fact — Binding on party in second appeal — See Civil P. C. (1908), Ss. 100-101

(Feb) 40B

—R. 105 — Date of institution of suit — Question of fact — Binding on party in second appeal — See Civil P. C. (1908), Sections 100-101

(Feb) 40B

—**Bombay High Court Rules (O. S.) (1930), R. 288** — Rule is same in all material respects with Rule 310 of Bombay High Court Rules (O. S.) 1930 — Rule is also similar with Companies (Court) Rules (1959) Rule 7 — See Companies (Court) Rules (1959), Rule 7

(Oct) 323A

—**Bombay High Court Rules (O. S.) (1957), R. 310** — Rule is same in all material respects with R. 288 of Bombay High Court Rules (O. S.) 1930 — Rule is also similar with Companies (Court) Rules (1959), Rule 7 — See Companies (Court) Rules (1959), Rule 7

(Oct) 323A

Hindu Law — Guardianship — Contract by guardian on behalf of minor — Enforcement — Principles, (1912) ILR 39 Cal 232 (PC) held no longer good law

(Apr) 140A

—Guardianship — De facto and de jure guardian — Mother cannot be de jure guardian when father is living — Father living but reducing the family to extreme poverty by addiction to drink — Mother taking help of her father to avoid sale of property by revenue authorities — Held, that the mother was a de facto guardian of the minor and in that capacity she was competent to act on her son's behalf as if she was the infant's de jure guardian

(Apr) 140B

—Joint Family — Widow — Partition of joint family property — Share of a member continues to be interest in joint family property — Death of such member — Extent of widow's interest — See Hindu Women's Rights to Property Act (1937) (as amended in 1938), Section 3

(Feb) 77

Hindu Law (contd.)

—Partition — Widow — Interest of coparcener — Death of coparcener — Extent of widow's interest — See Hindu Women's Rights to Property Act (1937) (as amended in 1938), Section 3 (Feb) 77

—Succession — Widow of coparcener — Extent of her interest — See Hindu Women's Rights to Property Act (1937) (as amended in 1938), Section 3 (Feb) 77

—Widow — Interest of a member in joint family property — Death of member — Extent of widow's interest — See Hindu Women's Rights to Property Act (1937) (as amended in 1938), Section 3 (Feb) 77

Hindu Minority and Guardianship Act (32 of 1956), S. 8 — Alienations made by guardian in contravention of — Cannot be considered in application by minor under Section 38 of Bombay Act (99 of 1958) — See Tenancy Laws — Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act (99 of 1958), S. 38 (Nov) 361

Hindu Succession Act (30 of 1956), S. 3 (1) (i) Proviso — "Son or daughter" in Sec. 15 (2) (b) — "Related" meaning of — Means son or daughter of female dying intestate irrespective of whether they were born to her from one or other husband — See Hindu Succession Act (1956), Section 15 (2) (b) (Jun) 205D

—S. 15 — Hindu widow inheriting lands from her second husband as sole heir — Her son by first husband is entitled to succeed to her property on her dying intestate after Act in preference to nephews and grand-nephews of her second husband (Jun) 205A

—S. 15 (2) (b) and Section 3 (1) (i), Proviso — 'Son or daughter' in Section 15 (2) (b) — Means son or daughter of female dying intestate irrespective of whether they were born to her from one or other husband — 'Related' — Definition includes even illegitimate children (Jun) 205D

Hindu Women's Rights to Property Act (18 of 1937) (as amended in 1938), S. 3 — Scope — Partition of joint Hindu family property — Share of a member continues to be interest in joint family property — Death of such member — Extent of widow's interest — Such interest will be according as whether she is sole claimant or there are other joint coparceners having a right with her — Living separated co-parceners are excluded — (Hindu Law — Joint Family) — (Hindu Law — Partition) — (Hindu Law — Widow) — (Hindu Law — Succession) (Feb) 77

HOUSES AND RENTS

—Bombay Housing Board Act (69 of 1948), S. 53A — Distinction made between premises of Housing Board and Private Premises is reasonable — Not violative of Article 14 of Constitution — See Constitution of India, Article 14 (Oct) 333A

—S. 53A — Housing Board given option to proceed against some occupants under the

Houses and Rents — Bombay Housing Board Act (contd.)

Act and to file suits against others — Procedure making it impossible to choose the latter — Section is valid — See Constitution of India, Art. 14 (Oct) 333B

—S. 53A — Notice under, to vacate — Amounts to proper termination of tenancy (Oct) 333C

—S. 53B — Distinction made between premises of Housing Board and Private Premises is reasonable — Not violative of Article 14 of Constitution — See Constitution of India, Article 14 Bom 333A

—S. 53B — Housing Board given option to proceed against some occupants under the Act and to file suits against others — Procedure making it impossible to choose the latter — Section is valid — See Constitution of India, Art. 14 (Oct) 333B

—S. 53C — Distinction made between premises of Housing Board and private premises is reasonable — Not violative of Article 14 of Constitution — See Constitution of India, Article 14 (Oct) 333A

—S. 53C — Housing Board given option to proceed against some occupants under the Act and to file suits against others — Procedure making it impossible to choose the latter — Section is valid — See Constitution of India, Art. 14 (Oct) 333B

—S. 53D — Distinction made between premises of Housing Board and private premises is reasonable — Not violative of Article 14 of Constitution — See Constitution of India, Art. 14 (Oct) 333A

—S. 53D — Housing Board given option to proceed against some occupants under the Act and to file suits against others — Procedure making it impossible to choose the latter — Section is valid — See Constitution of India, Article 14 (Oct) 333B

—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), Ss. 5, 14 and 15 — As amended by Bombay Act (49 of 1959) — Effect of — Lease-deed expressly authorising tenant to sub-let — Sub-letting by tenant after 21-5-1959 — Sub-lessee though lawful sub-tenant cannot claim status of head tenant under Section 14 or that of statutory tenant under S. 5 (11) (b) (Mar) 103A

—S. 5 (11) — Tenant — Contractual tenant and statutory tenant — Interpretation of Section 5 (11) (b) — Expression "who had derived title before the commencement of Bombay Ordinance, 1959" qualifies 'any person' and 'not his predecessor' (Mar) 103C

—S. 12 — Suit for ejectment — Addition of ground for ejectment — Application for amendment of plaint is admissible — Cause of action is termination of tenancy and not ground for ejectment — See Houses and Rents — Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 13 (Jun) 194B

Houses & Rents — Bombay Rents, Hotel & Lodging House Rates Control Act (contd.)

—S. 12 (1) — Protection from eviction is available only to a statutory tenant against his landlord at relevant time under the Act. (Mar) 103B

—Ss. 13, 12 — Suit for ejectment — Amendment of plaint by addition of fresh ground for ejectment — Application for, is admissible — Cause of action is termination of tenancy and not grounds for ejectment (Jun) 194B

—S. 13 (1) (hh), (3A) (a) and (3B) — Proposal to build one new building on demolition of two adjacent buildings, belonging to same landlord — Provision for residential tenements under Section 13 (3A) (a) need not necessarily be in the place where such tenements are presently occupied — Word "Premises" occurring in S. 13 (1) (hh) includes more than one buildings (Apr) 119A

—S. 13 (1) (hh), Explanation (as added by Maharashtra Amendment) Act (13 of 1964) — Building having loft on top of first floor is not one having more than two floors (Apr) 119B

—S. 13 (1) (hh), (3A) and (3B) (b) — Institution of suit for possession under Section 13 (1) (hh) — Enclosure of copy of certificate issued under Section 13 (3B) (b) with plaint instead of original certificate — No non-compliance with Section 13 (3A) (Apr) 119C

—S. 14 — Sub-letting by tenant after 21-5-1956 — Sub-lessee though lawful sub-tenant cannot claim status of head-tenant under Section 14 or that of statutory tenant under Section 5 (11) (b) — See Houses and Rents — Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), Section 5 (Mar) 103A

—S. 15 — Sub-letting after 21-5-59 — Effect — See Houses and Rents — Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), Section 5 (Mar) 103A

—S. 15 (2) (as added in 1959) — Scope — Word "Tenant" includes a lawful sub-tenant — A sub-tenant of a contractual sub-tenant can claim protection of sub-section (2) of Section 15 (Feb) 49B

—S. 16 — Offer of delivery of possession by tenant for repairs is not compliance with Section 16 (4) — Failure of landlord to take delivery and carry out repairs — No offence under Section 16 (4) — "Deliver possession" and "vacate" — Meaning of — Words and Phrases (Oct) 348A

—S. 16 (3) — Penal provision — Should be strictly construed — See Civil P. C. (1908) Pre (Oct) 348B

—S. 28 — Jurisdiction — Dispute relating to possession — Jurisdiction of City Civil Court barred (Oct) 342

1969 (Bom) Indexes 2

Houses and Rents

—C. P. and Berar Letting of Houses and Rent Control Order (1949), Cl. 13 — Power to dismiss application in default implies equally a duty to restore such application if there was good cause for non-appearance — 1953 Nag LJ (Notes) 211, Not foll. (Nov) 393A

—Cl. 13 — Proceedings under — Application for setting aside ex parte order granting permission to terminate tenancy rejected — No opportunity given to tenants to substantiate claim — Error apparent on face of record — See Constitution of India, Art. 226 (Nov) 393C

Imports and Exports (Control) Act (18 of 1947), S. 3 — Imports (Control) Order (1955), Pre. — Validity — Neither Sec. 3 of the Act of 1947 nor Imports (Control) Order (1955) is beyond legislative competence of Central Legislature (Jul) 224A

Imports (Control) Order (1955), Preamble — Order is not beyond legislative competence of Central legislature — See Imports and Exports (Control) Act (1947), Section 3 (Jul) 224A

Industrial Disputes Act (14 of 1947), S. 2 (k) — Application and interpretation of Standing Orders is "Industrial Dispute" — See Industrial Employment (Standing Orders) Act (1946), Section 13A (Aug) 274A

—S. 2 (s) — Workman includes ex-workman for purposes of Section 13A of Industrial Employment (Standing Orders) — See Industrial Employment (Standing Orders) Act (1946), S. 2 (i) (Aug) 274B

—S. 7 — Presiding Officer not empowered under Section 13A of Industrial Employment (Standing Orders) — Can dispose of application for reinstatement — See Industrial Employment (Standing Orders) Act (1946), S. 13A (Aug) 274A

—S. 8 — Officer appointed under Section 8 but not empowered under Sec. 13A Industrial Employment (Standing Orders) — Powers to dispose application for reinstatement — See Industrial Employment (Standing Orders) Act (1946), Section 13A (Aug) 274A

—S. 10 (1) (c) — Industrial Disputes after reference to Labour Court is "proceeding" — Application and interpretation of Standing Order — Dispute over is "proceeding" — See Industrial Employment (Standing Orders) Act (1946), Section 13A (Aug) 274A

—S. 10 (1) (c) — Reinstatement — Reference under Section 10 (1) (c) read with Sch. 2, Entry 3 necessary — (1965) 1 LLJ 54 (Guj), Partly dissented — See Industrial Employment (Standing Orders) Act (1946), Section 13A (Aug) 274C

—Sch. 2, Entry 1 — Entries 1 and 2 read with Section 7 empowers labour Court to

Industrial Disputes Act (contd.)

dispose cases of reinstatement — See Industrial Employment (Standing Orders) Act (1946), S. 13A (Aug) 274A

—Sch. 2, Entry 2 — Labour Court empowered to deal with matters in Entry 2 — Question of reinstatement comes within its purview — See Industrial Employment (Standing Orders) Act (1946), Section 13A (Aug) 274A

—Sch. 2, Entry 3 — Reinstatement — Reference under Section 10 (1) (c) read with Sch. 2, Entry 3 necessary — (1965) 1 LLJ 54 (Gui), partly dissented — See Industrial Employment (Standing Orders) Act (1946), Section 13A (Aug) 274C

—Sch. 2, Item 2 — Interpretation of Industrial Employment (Standing Orders) Act Section 13-A is industrial dispute — See Industrial Employment (Standing Orders) Act (1946), S. 13A (Aug) 274D

Industrial Employment (Standing Orders) Act (20 of 1946), Ss. 2 (i), 13A — Industrial Disputes Act (1947), Section 2 (s) — “Workman” — Ex-workman can make an application under Section 13A

(Aug) 274B

—S. 13A — Respondent appointed Presiding Officer of Labour Court under Section 8, Industrial Disputes Act — He can decide questions relating to interpretation and application of standing order, even in absence of notification under Section 13A

(Aug) 274A

—S. 13A — Ex-workman can make application under Section 13A — See Industrial Employment (Standing Orders) Act (1946), S. 2 (i) (Aug) 274B

—S. 13A — Relief of reinstatement cannot be given — It can be given upon reference under Section 10 (1) (c) of Industrial Disputes Act read with Entry 3 of Sch. II of the Act — (1965) 1 LLJ 54, (Gui), partly dissented from (Aug) 274C

—S. 13A — Under Standing Order, if workmen fails to report for work within fortnight of expiry of leave, he “shall be deemed to have voluntarily abandoned his service” — Expression “deemed to have” is an inference drawn by fiction of law — Question of intention or finding as to abandonment is irrelevant (Aug) 274D

Interpretation of Statutes

See (1) Civil P. C. (1908), Preamble.

(2) Constitution of India, Preamble and Article 246.

—“Deemed to have” — Words creating legal fiction — See Industrial Employment (Standing Orders) Act (1946), Section 13A (Aug) 274D

—Statement of objects and reasons — Use of — See Civil P. C. (1908), Pre.

(Apr) 127D

Iron and Steel Control Order (1956), Cl. 27 and proviso to sub-clause (2) of Clause 27

Iron & Steel Control Order (contd.)

— Words ‘prices and maximum prices’ are used synonymously under Clause 27 — Steel Controller is entitled under proviso to Clause 27 (2) to fix selling price of specified stock (May) 163F

—Cl. 27 (1) (2) proviso — Fixation of special selling price for specified stock of iron scrap under Clause 27 (2) proviso — Does not amount to amendment, variation or rescission of general price fixed under Clause 27 (1) by notification of Circular No. 5 of 1957 — Approval of Central Government and publication in Gazette of India is not necessary — Section 21, General Clauses Act (1897) is inapplicable (May) 163J

—Cl. 27 (2) proviso — Scrap hoops held by Regional Director, Ministry of Food — Fixation of its selling price by Iron and Steel Controller at much higher rate than controlled price is valid (May) 163C

—Cl. 27 (2), proviso — Fixation under of special selling price — Order not containing explicit direction that general selling price fixed under Circular No. 5 of 1957 is inapplicable — Validity of order is unaffected by such omission (May) 163E

—Cl. 27 (2), proviso — Interpretation of — Fixation of special selling price — Possible only in respect of specified stock held by Government Department or Corporation, and not by other person — Price not attached to specified stock (May) 163G

—Cl. 27 (2), proviso — Fixation of special selling price at much higher rate than controlled rate — Vires of proviso not challenged — Order made in pursuance of proviso does not violate Article 14 of Constitution (May) 163H

—Cl. 27 (2), proviso — Fixation of higher selling price than controlled price of specified iron scrap — Purchase at such price at calculated risk — Failure of purchaser to get special price fixed for resell — Compulsorily selling it at loss — Order does not contravene Article 19 (1) (g) of Constitution (May) 163I

Judicial Precedents

See Civil P. C. (1908), Pre.

—English Statute and decision how far an aid — See Copyright Act (1957), Pre.

Letters Patent (Bombay) Cl. 12 — Suit for injunction — Value of property exceeding Rs. 25,000 — Suit is within jurisdiction of Bombay High Court on its original side — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), S. 6 (ix) (Dec) 423C

—Cl. 15 (Bombay) — Date of institution of suit — Question of fact — Binding on party in second appeal — See Civil P. C. (1908), S. 100 (Feb) 40B

—Cl. 15 (Bombay) — Procedure prescribed by Order 21, Rules 97 to 102 of Civil

Letters Patent (Bombay) (contd.)

P. C. is summary — Findings by Single Judge of High Court — Appeal under Cl. 15 — Division Bench will not interfere with those findings — See Civil P. C. (1908), O. 21, R. 97 (Dec) 447

—Cl. 37 (Bombay) — Power of framing rules for regulating procedure on Original Side — Scope and extent of — See Civil P. C. (1908), Section 122 (Apr) 117A

Life Insurance Corporation Act (31 of 1956), S. 3 — Corporation is purely business concern like any other private business house — It is not a "State" within meaning of Article 12 of Constitution — See Constitution of India, Art. 12 (Oct) 337A

—S. 6 — Corporation is purely business concern like any other private business house — It is not a "State" within meaning of Article 12 of Constitution — See Constitution of India, Art. 12 (Oct) 337A

—S. 22 — Zonal Manager — Not Tribunal within Article 227 of Constitution — See Constitution of India, Article 227 (Oct) 337D

Limitation Act (9 of 1908), S. 4 — Setting aside execution sale — Limitation expiring during vacation — Section 4 applies — See Civil P. C. (1908), Order 21, Rule 89 (Mar) 90

—S. 15 — "Stayed by injunction or order" — Undertaking by party to court not to execute decree — When amounts to stay of execution — Test indicated (Aug) 282

—Arts. 142 and 144 — Tenant or his heirs holding over after expiry of lease are in judicial possession protected by law — Dispossession by person alleged to be heir of deceased lessor is dispossession by trespasser without any title — Suit for possession filed within 12 years from date of dispossession, held, maintainable (Dec) 429

—Art. 144 — Tenant or his heirs holding over after expiry of lease — Dispossession by person alleged to be heir of deceased lessor is dispossession by trespasser without any title — Suit for possession filed within 12 years from date of dispossession, held maintainable — See Limitation Act (1908), Article 142 (Dec) 429

—Art. 166 — Application for setting aside execution sale — Limitation for prescribed by this Article and not by Order 21, Rule 89, Civil P. C. — See Civil P. C. (1908), O. 21, R. 89 (Mar) 90

—Art. 183 — Civil P. C. (1908), S. 39 — Application under, for transmigration of decree to another court — Not a revival of decree (Mar) 84A

Limitation Act (36 of 1963), S. 4 — Setting aside execution sale — Limitation expiring during vacation — Section 4 applies — See Civil P. C. (1908), Order 21, Rule 89 (Mar) 90

Limitation Act (1963) (contd.)

—Art. 127 — Application to set aside execution sale — Limitation for application not prescribed by Order 21, Rule 89 but by Article 127 — See Civil P. C. (1908), O. 21, R. 89 (Mar) 90

—Art. 136 — Limitation for execution of decree — Difference in old Act and new Act pointed out (Mar) 84H

—Art. 136 — Execution application filed within 12 years of decree against judgment-debtors one of whom was dead — Application is nullity so far as deceased judgment-debtor is concerned — Even otherwise if legal representatives of deceased judgment-debtors are impleaded after 12 years, execution would be barred against them (Mar) 84I

Maharashtra Agricultural Lands (Ceiling on Holdings) Act (27 of 1961).
See under Tenancy Laws.

Maharashtra Agricultural Lands (Ceiling on Holdings) Rules 1962
See under Tenancy Laws.

Maharashtra Co-operative Societies Act (24 of 1961)
See under Co-operative Societies.

Maharashtra Co-operative Societies Rules (1961)
See under Co-operative Societies.

Maharashtra Food Grains Dealers Licensing Order, 1963, Cl. 3 — Breach of condition No. 7A of Licence requiring wholesaler who sells food grains to retailers to maintain register in form D — Before such breach is established, prosecution has to prove that the wholesaler was in fact selling to retailers — Unless it is so established, it is not obligatory on the part of dealer to maintain register in form D (Feb) 70

—Cl. 3 (2) — Presumption under — Sub-clause (2) raises a limited presumption as to the purpose for which foodgrains are stored namely that the stock found with a dealer was stored by him for sale — Prosecution is still required to prove that store of foodgrains was made for purpose of carrying on business of storing for sale (Feb) 71

Maharashtra Municipalities Act (40 of 1965),
See under Municipalities.

Maharashtra Municipalities Rules 1965
See under Municipalities.

Maharashtra Zilla Parishads and Panchayats Samities Act (5 of 1962)
See under Panchayats.

Master and Servant
See Constitution of India, Article 226 (Oct)

Minimum Wages Act (11 of 1948), S. 20 (2)
Second Proviso — Sufficient cause — Disputed question of fact — Settlement possible under Section 20 — Not to be raised in

Minimum Wages Act (contd.)

Writ proceedings — See Constitution of India, Article 226 (Sep) 310C

—Sch. I Part I Entry 7 — “Construction or maintenance of roads” — Absence of any definition of road in the Act — Words ‘road’ in the expression is wide enough to include railway, railroad or railway track because road is the genus while railway is a species of road — Road does not cease to be such merely because it is exclusively used by a particular kind of vehicle as long as it is used as a line of communication between places — Hence employment on construction and maintenance of railway would fall within entry 7 (Sep) 310B

MUNICIPALITIES

—Bombay District Municipal Act (3 of 1901), Ss. 167, 167A — Bombay General Clauses Act (1 of 1904), Section 3 (20) — Negligence of Municipality or its Officers — Suit for damages — Effect of Sections 167 and 167A — (Tort — Negligence) (Apr) 127A

—S. 167 — Bombay General Clauses Act (1 of 1904), Section 3 (20) — Good faith — What amounts to — Person whether acted in good faith — Depends on facts of the case — (Words and Phrases — Good faith) — (General Clauses Act (1897), Section 3 (22)) — (Penal Code (1860), S. 52) (Apr) 127B

—S. 167 — Doing things authorised by Statute — Liability for negligence — When arises — (Tort — Negligence) (Apr) 127E

—S. 167 — Works carried out by Municipality — Negligence of contractors and engineers — Liability of the Municipality as principal — (Contract Act (1872), S. 226) — (Tort — Negligence) (Apr) 127H

—S. 167A — Suit for damages for negligence of Municipality or its officers — Effect of Sections 167A and 167 — See Municipalities — Bombay District Municipal Act (3 of 1901), Section 167 (Apr) 127A

—Maharashtra Municipalities Act (40 of 1965) S. 11 — List prepared under Section 11 of Maharashtra Municipalities Act (40 of 1965) is final if not got corrected and is conclusive evidence for purposes of Section 12 — See Municipalities — Maharashtra Municipalities Act (40 of 1965), Section 12 (Jul) 213A

—Ss. 12, 11 — Right to vote at Municipal election is statutory — Only list of voters prepared and authenticated under Section 11, has to be seen to find out whether a person is qualified or not to vote at such election — Name of citizen included in electoral roll of Legislative Assembly but not in list of voters prepared for municipal election — No step taken to get name included under Section 11 — List held was conclusive evi-

Municipalities — Maharashtra Municipalities Act (contd.)

dence under Section 12 (2) of the rights of persons who were entitled to vote — Right to franchise must be deemed to have been denied to those whose names were not in the list (Jul) 213A

—Maharashtra Municipalities Rules (1965), R. 37 — Mark made by voter not on face but on back of ballot paper over that part where symbol could be seen against light — Requirement of Rule 37 held not complied with by voter — Vote held invalid (Jul) 213B

PANCHAYATS

—Maharashtra Zilla Parishads and Panchayat Samitis Act (5 of 1962), S. 27 — Scope — Election petition under Section 27 (1) merely challenging validity of election of declared candidate — Judge can only declare that election of returned candidate was void — He cannot declare any other candidate to be duly elected in his place in absence of any prayer in election petition — Rule equally applies even in cases falling under second proviso to Section 27 (5) (b) (Dec) 433A

Patents and Designs Act (2 of 1911), Pre. — Decisions of Canadian Courts not binding on Indian Courts — See Civil P. C. (1908), Preamble (Aug) 255J

—S. 26 — Suit for infringement — Defence under Section 29 (2) read with Section 26 as to invalidity of patent — Onus to prove on defendant — See Patents and Designs Act (1911), Section 29 (2) (Aug) 255E

—Ss. 26, 29 (2) — Action for infringement of patent — Defence under S. 29 (2) read with Section 26 that patent was invalid on ground of insufficiency of description — Duty of patentee pointed out (Aug) 255F

—Ss. 26 and 29 (2) — Action for infringement of patent — Defence under Section 29 (2) read with Section 26, that the patent was invalid on the ground of want of novelty — Tests of novelty stated — Objection on this ground, held failed (Aug) 255G

—Ss. 26 (1) (e), 29 — Defence to action for infringement of patent under Section 29 read with Section 26 (1) (e) that the patent was invalid on the ground that it did not involve inventive step — “Inventive step” what amounts to stated (Aug) 255H

—Ss. 26 (1) (f), 29 — Defence in action for infringement of patent that the invention patented had no utility — Considerations (Aug) 255I

—S. 29 — Acquiescence and estoppel — Delay in filing action, must prejudice defendants in order to disentitle plaintiffs to relief of perpetual injunction (Aug) 255A

Patents & Designs Act (contd.)

—S. 29 — Question of infringement of patent is mixed question of law and fact

(Aug) 255B

—S. 29 — Action for infringement of patent — Allegation that defendants' medicinal product is prepared according to the plaintiffs' registered patent — Defendants admitting that the drug which they prepared and sold is the very drug in respect of which plaintiffs have obtained their patent — Onus of proof — Facts admitted need not be proved

(Aug) 255C

—S. 29 — Infringement action — Main function of the Court is to construe the claims (stated at the end of specifications in the patent) which are alleged to have been infringed without reference to the body of the specification and to refer to the body of the specification only if there is any ambiguity or difficulty in the construction of the claims in question — Where one of the claims in respect of which infringement is alleged is wide enough to cover all methods for achieving particular result, the question is not as to the method actually followed by the plaintiffs but is whether the method followed by the defendants is covered by the claim in the plaintiffs' patent — Held that, that defendants did infringe the claim was clear from the facts admitted in the pleadings and that it was unnecessary for plaintiffs to lead any evidence to prove it

(Aug) 255D

—S. 29 — Infringement of Patent — Defence under Section 29 read with Section 26 (1) (e) on ground of want of inventive step — Inventive step what amounts — See Patents and Designs Act (1911), Section 26 (1) (e)

(Aug) 255H

—S. 29 — Suit for infringement of Patent — Defence of want of utility — Considerations — See Patents and Designs Act (1911), S. 26 (1) (f)

(Aug) 255I

—Ss. 29 (2) and 26 — Action for infringement of patent — Defence under S. 29 (2) read with Section 26, as to invalidity of plaintiffs' patent on grounds of insufficiency of description, want of novelty, absence of inventive step and want of utility — Onus is on the defendants to prove all objections to the validity of the patent

(Aug) 255E

—S. 29 (2) — Suit for infringement of Patent — Defence pleading insufficiency of description — Duty of Patentee — See Patents and Designs Act (1911), Section 26

(Aug) 255F

—S. 29 (2) — Suit for infringement of Patent — Defence on ground of want of novelty — Tests of novelty — See Patents and Designs Act (1911), Section 26

(Aug) 255G

Penal Code (45 of 1860), S. 52 — Good faith — Implication and connotation — See Municipalities — Bombay District Municipi-

Penal Code (contd.)

pal Act (3 of 1901), Section 167

(Apr) 127B

—Ss. 96, 97 — Prosecution under Sections 324/34, I. P. C. — Plea of total denial of the offence, taken up by accused in their statements — It is open for them to raise alternative plea of right of private defence if the same can be proved on strength of prosecution evidence itself

(Jan) 20B

—S. 97 — Right of private defence — Whether plea can be raised by accused who pleads total denial of the offence — See Penal Code (1860), Section 96

(Jan) 20B

—Ss. 97, 99, 425, 441 — Right of private defence of property — Offender asserting bona fide claim of his right — Offender neither liable for mischief under Section 425 nor for criminal trespass under Section 441 — There is no right of private defence of property against such an offender

(Jan) 20C

—S. 99 — Right of private defence of property — Availability — See Penal Code (1860), Section 97

(Jan) 20C

—S. 142 — Intentional joining of unlawful assembly or continuing to be in such assembly necessary to attract Section 142 — See Penal Code (1860), Section 147

(Nov) 383B

—Ss. 147, 148, 149 and 142 — Sections do not apply to persons merely present in unlawful assembly

(Nov) 383B

—S. 148 — Mere presence of person in unlawful assembly does not attract section — See Penal Code (1860), Section 147

(Nov) 383B

—S. 149 — For application of section mere presence of person in unlawful assembly not enough — See Penal Code (1860), Section 147

(Nov) 383B

—S. 409 — Conviction for criminal breach of trust — Subsequent prosecution for different sums during the period covered earlier — Subsequent trial not barred. AIR 1917 Mad 524, Dissented from — See Criminal P. C. (1898), Section 403

(Jan) 1A

—S. 425 — Offender not liable for mischief under the sections — No right of private defence of property against such an offender — See Penal Code (1860), S. 97

(Jan) 20C

—S. 441 — Offender not liable for trespass under — No right of private defence against such an offender — See Penal Code (1860), S. 97

(Jan) 20C

Pith and Substance Rule

See Constitution of India, Article 246

Precedents

— See Civil P. C. (1908), Pre.

—Decision of Canadian Courts not binding on Indian Courts

Precedents (contd.)

—English Statute and decision how far an aid — See Copyright Act (1957), Pre.

—Judicial precedents — Decisions of Canadian Courts not binding on Indian Courts

Presidency Small Cause Courts Act (15 of 1882), S. 41 — “Annual value of rack rent” — Meaning of — Such value is to be based on “rent” and not on licence fees — It means only gross rent and not net rent (Feb) 73

—S. 41 (as it stood prior to amendment by Maharashtra Act 41 of 1963) — Application for possession on ground that defendant was licensee and that licence was withdrawn — Court accepting defendant's plea that he was sub-tenant and dismissing application — Subsequent suit for possession alleging that licence was duly determined not barred by res judicata — See Civil P. C. (1908), S. 11 (Mar) 111A

—S. 43 — (as it stood prior to Amendment by Maharashtra Act 41 of 1963) — Application for possession on ground that defendant was licensee and that licence was withdrawn — Court accepting defendant's plea that he was sub-tenant and dismissing application — Subsequent suit for possession alleging that licence was duly determined not barred by res judicata — See Civil P. C. (1908), S. 11 (Mar) 111A

—S. 46 — (as it stood prior to amendment by Maharashtra Act (41 of 1963)) — Application for possession on ground that defendant was licensee and that licence was withdrawn — Court accepting defendant's plea that he was sub-tenant and dismissing application — Subsequent suit for possession alleging that licence was duly determined not barred by res judicata — See Civil P. C. (1908), S. 11 (Mar) 111

—S. 47 (as it stood prior to amendment by Maharashtra Act 41 of 1963) — Application for possession on ground that defendant was licensee and that licence was withdrawn — Court accepting defendant's plea that he was sub-tenant and dismissing application — Subsequent suit for possession alleging that licence was duly determined not barred by res judicata — See Civil P. C. (1908), S. 11 (Mar) 111

—S. 49 — (as it stood prior to amendment by Maharashtra Act 41 of 1963) — Application for possession on ground that defendant was licensee and that licence was withdrawn — Court accepting defendant's plea that he was sub-tenant and dismissing application — Subsequent suit for possession alleging that licence was duly determined not barred by res judicata — See Civil P. C. (1908), S. 11 (Mar) 111A

Prevention of Food Adulteration Act (37 of 1954), S. 7 — Conviction under — Sentence — See Prevention of Food Adulteration Act (1954), S. 16 (Nov) 360

—S. 7 (i) — Conviction based on statement under Section 342, Criminal P. C. — Conviction held improper — See Prevention of Food Adulteration Act (1954), Section 16 (1) (a) (i) (Nov) 353C

—Ss. 10 (7) and 16 (as amended by Act 49 of 1964) — Power of Food Inspector to enter premises for taking samples — Power is similar to that of Police Officer vested in him under Section 103, Criminal P. C. (1898) — Provisions of Clause (7) must be strictly followed before exercise of powers of entry in premises (Nov) 353A

—Ss. 10 (7), 16 — Prevention of Food Adulteration Rules (1955), Rule 14 — Trial for offence under Section 16 — Evidence of Food Inspector challenged on ground of breach of duties under Section 10 (7) and Rule 14 — Food Inspector not examining witness who accompanied him at time of taking sample — The very witness examined as defence witness and deposed that he had not seen any bottles to be empty before they were filled with samples — Accused is entitled to benefit of doubt (Nov) 353B

—S. 16 (as amended by Act 49 of 1964) — Offence under Section becoming grave after amendment — Strict proof of offence necessary — See Prevention of Food Adulteration Act (1954), Section 10 (7) (Nov) 353A

—S. 16 — Trial for offence under — Witness not examined by Food Inspector — Benefit of doubt to accused — See Prevention of Food Adulteration Act (1954), Section 10 (7) (Nov) 353B

—Ss. 16 and 7 — Offence under — Sentence should be minimum prescribed (Nov) 360

—Ss. 16 (1) (a) (i), 7 (i) — Conviction of accused under — Conviction based on statement under Section 342, Criminal P. C. (1898) — Accused not represented by advocate — Statement merely in nature of reply to questions put to him in order to elicit truth or otherwise of prosecution case — Failure to put to accused circumstances against him — Effect — Accused not given opportunity to explain those circumstances — His statement does not amount to admission of prosecution case — Conviction is improper (Nov) 353C

Prevention of Food Adulteration Rules (1955), R. 14 — Contravention of Rule alleged — Food Inspector not examining witness — Benefit of doubt to accused — See Prevention of Food Adulteration Act (1954), Section 10 (7) (Nov) 353B

Railways Act (9 of 1890), S. 3 (6) (old) — Definition in Section 3 (6) does not give independent legal existence to separate zonal

Railways Act (contd.)

railways — See Railways Act (1890), S. 74E
(Dec) 401E

—S. 72 — Damage to goods in transit — Damages — Absence to show the exact monetary loss suffered would not disentitle plaintiff to claim damages
(Jan) 7C

—S. 72 (old) — Loss of goods in transit due to fire — Negligence of railway servants — Damages — Assessment — Joint survey by Railway Inspector and Insurance Company made immediately — Figure of quantum agreed upon — Damages at the agreed figure would be decreed in case Railway were held liable
(Dec) 401B

—S. 72 (old) — Section deals with limits of liability of Railway Administration — Section does not create responsibility — It arises out of contract of carriage the Railway Administration makes
(Dec) 401F

—S. 74-A — Applicability — Conditions essential
(Jan) 7A

—Ss. 74A and 74C — Negligence — Burden of proof — Railway obliged to place all material on record to decide whether Railway was negligent
(Jan) 7B

—S. 74C — Negligence — Burden of Proof is on plaintiff — See Railways Act (1890), Section 74A
(Jan) 7B

—S. 74E (old) — Wagon catching fire in transit — Duty of Railway Administration to prove how the wagon was handled on way — Negligence of Railway servant — Burden of proof
(Dec) 401A

—S. 74-E, 77, 80, 140, 3 (6) (old) — Goods booked on Central Railway — Destination on South Eastern Railway — Notice — Presumption under Section 140 in respect of notice sent by ordinary post — Presumption under Section 114, Evidence Act — Purpose of notice — Notice sent to destination railway — Loss on Central Railway — Notice on Central Railway held not necessary
(Dec) 401E

—S. 77 (old) — Consignee entitled to damages from Railway — Payment made by insurer of goods — Insurer subrogated to right of consignee but policy requiring consignee to join in the legal actions taken by insurer — Notice of claim by consignee after being paid by insurer is valid — Contract between him and railway is not affected
(Dec) 401D

—S. 77 — Goods booked on Central Railway — Destination on S. E. Railway — Loss on Central Railway — Notice sent to destination railway — Notice on Central Railway held not necessary — See Railways Act (1890), S. 74E
(Dec) 401E

—S. 80 — Goods booked on Central Railway — Destination on S. E. Railway — Notice sent to destination railway — Loss on Central Railway — Notice on Central

Railways Act (contd.)

Railway held not necessary — See Railways Act (1890), S. 74E
(Dec) 401E

—S. 140 — Goods booked on Central Railway — Destination on S. E. Railway — Notice — Presumption in respect of notice sent by ordinary post — See Railways Act (1890), S. 74E
(Dec) 401E

Representation of the People Act (43 of 1951), S. 52 — Election petition — Inspection of ballot papers — When can be ordered — See Representation of the People Act (1951), S. 83 (1) (a)
(Jun) 177G

—S. 63 (3) — Application for recount of votes — Rejected on ground that it is frivolous and unreasonable — Only investigation made was by way of inquiries in absence of applicant — Rejection is improper
(Jun) 177I

—S. 64 — Election petition — Inspection of ballot papers — When can be ordered — See Representation of the People Act (1951), S. 83 (1) (a)
(Jun) 177G

—Ss. 82, 90, 92 — Parties to election petition — Improprieties alleged on part of Returning Officer — He can be joined as proper party, though not necessary party — Failure of Returning Officer to take plea in written statement that he is not proper party — Cannot raise this plea thereafter
(Jun) 177H

—Ss. 83 (1) (a), 90, 92 — Conduct of Election Rules (1961), Rule 93 — Inspection of ballot papers — When can be ordered
(Jun) 177A

—Ss. 83 (1) (a), 92, 100 (1) (d) (iii) and (iv) — Conduct of Election Rules (1961), Rr. 53 (4), 56 (3), 60, 93 — Election petition based on improper reception and rejection of ballot papers — Giving of serial numbers of such ballot papers not necessary
(Jun) 177B

—S. 83 (1) (a) — Decisions on questions of facts — Cannot be cited as precedents — See Civil P. C. (1908), Preamble
(Jun) 177E

—Ss. 83 (1) (a), 52 100 (1) (d) (iii) and (iv), 64 — Conduct of Election Rules (1961), Rr. 53, 56, 93 — Election petition — Inspection of ballot papers — Improper reception and rejection of votes and non-compliance with provisions of S. 64 and Rr. 53 and 56 alleged — Approximate number of rejected votes given — Names of centres where non-compliance alleged specified — Inspection should be ordered
(Jun) 177G

—S. 90 — Inspection of ballot papers — When can be ordered — See Representation of the People Act (1951), S. 83 (1) (a)
(Jun) 177A

—S. 90 — Parties to election petition — Proper party and necessary party — See Representation of the People Act (1951), S. 82
(Jun) 177H

—S. 92 — Inspection of ballot papers — when can be ordered — See Representation

Representation of the People Act (contd.)

of the People Act (1951), S. 83 (1) (a)

(Jun) 177A

—S. 92 — Election petition based on improper reception or rejection of ballot papers giving of serial numbers to such ballot papers, not necessary — See Representation of the People Act (1951), S. 83 (1) (a)

(Jun) 177D

—S. 92 — Inspection of ballot papers — Order for — Court taking prima facie view before making such order not bound to weigh evidence or to judge credibility of witnesses

(Jun) 177F

—S. 92 — Parties to election petition — Proper party and necessary party — See Representation of the People Act (1951), S. 82

(Jun) 177H

—Ss. 94, 128 — Conduct of Election Rules (1961), Rr. 53 (4), 54, 56 (3), 60 — Right of inspection under Rule 56 (3) alone

— Does not include right to take notes — Limited to rejected ballot papers thereof

(Jun) 177D

—S. 100 — Election petition under S. 27 (1) of Maharashtra Zilla Parishads and Panchayat Samitis Act — Relief that can be granted by Judge — See Panchayats — Maharashtra Zilla Parishads and Panchayat Samitis Act (5 of 1962), S. 27

(Dec) 433A

—S. 100 (1) (d) (iii) & (iv) — Election petition based on improper reception or rejection of ballot papers — Giving serial numbers of such ballot papers not necessary — See Representation of the People Act (1951), S. 83 (1) (a)

(Jun) 177B

—S. 100 (1) (d) (iii) & (iv) — Election petition — Inspection of ballot papers — When can be ordered — See Representation of the People Act (1951), S. 83 (1) (a)

(Jun) 177G

—S. 101 — Election petition under Section 27 (1) of Maharashtra Zilla Parishads and Panchayat Samitis Act — Relief that can be granted by Judge — See Panchayats — Maharashtra Zilla Parishads and Panchayat Samitis Act (5 of 1962), S. 27

(Dec) 433A

—S. 128 — Election petition — Right of inspection of ballot papers — Limited to rejected ballot papers and notes thereof — See Representation of the People Act (1951), S. 94

(Jun) 177D

Sale of Goods Act (3 of 1930), S. 4 — Contract of sale and work and labour contract — Tests laid down — Transactions undertaken by photographer — Supplying of negative of photograph with three prints excluding contract for taking photographs and that for developing negative amounts to sale — AIR 1957 Madh Pra 76, Dissented from

(Dec) 437

SALES TAX

—Bombay Sales Tax Act (51 of 1959), S. 52 — Transactions undertaken by photographer, if amounts to sale — AIR 1957 Madh Pra

Sales Tax — Bombay Sales Tax Act (contd.) 76, Dissented from — See Sale of Goods Act (1930), S. 4

(Dec) 437

Specific Relief Act (47 of 1963), Ss. 34, 37, 38 — Relative scope

(Dec) 423A

—S. 37 — Relative scope of Ss. 34, 37, 38 — See Specific Relief Act (1963), S. 34

(Dec) 423A

—S. 37 — Suit, not for declaration but for injunction only — S. 6 (iv) (d) of Bombay Court Fees Act has no application — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), S. 6 (iv) (d)

(Dec) 423B

—S. 38 — Relative scope of Ss. 34, 37, 38 — See Specific Relief Act (1963), S. 34

(Dec) 423A

Suits Valuation Act (7 of 1887)

See under Court-fees and Suits Valuations.

Suppression of Immoral Traffic in Women and Girls Act (104 of 1956), Section 4 (1) — Assistant to special Police Officer can investigate offences under Ss. 3 (1), 4 (1) and 5 (1) (d) and can submit charge sheet — See Suppression of Immoral Traffic in Women and Girls Act (1958), S. 13

(Aug) 285

—S. 5 (1) (d) — Assistant to Special Police Officer can investigate offences under Section 3 (1), 4 (1) and 5 (1) (d) and can submit charge-sheet — See Suppression of Immoral Traffic in Women and Girls Act (1958), S. 13

(Aug) 285

—Ss. 13, 14, 15, 4 (1), 5 (1) (d) — Notification dated 22-7-1958 issued by Bombay State under S. 13 — Accused charged under Ss. 3 (1), 4 (1) and 5 (1) (d) — Investigation made and charge sheet filed by officer, assistant to Special Police Officer within meaning of Sec. 13 (3) (a) and Notification — Magistrate can take cognizance of offence

(Aug) 285

—S. 14 — Officer assisting Special Police Officer can file charge sheet — No prohibition under S. 14 — See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 13

(Aug) 285

—S. 15 — Officer assisting Special Police Officer filing charge sheet — Not prohibited under S. 15 — See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 13

(Aug) 285

TENANCY LAWS

—Bombay Prevention of Fragmentation and Consolidation of Holdings Act (62 of 1947), S. 31 — Auction sale under Land Revenue Code — Acceptance of minor's bid — Section not contravened thereby — See Bombay Land Revenue Code (5 of 1879), S. 165

(Mar) 92

Tenancy Laws (contd.)

—Bombay Tenancy Act (29 of 1939), S. 29
 — See Tenancy Laws — Bombay Tenancy Act (29 of 1939), S. 33B (5) (a) (Nov) 363
 —S. 31 — Prohibition under Section 33-B (5) (a) — Applicability — Execution of order under Section 31 is necessary — Mere obtaining it is not enough — See Tenancy Laws — Bombay Tenancy Act (29 of 1939), Section 33B (5) (a) (Nov) 363

—Ss. 33-B (5) (a), 31, 29 — Prohibition under S. 33B (5) (a), comes into play only when landlord executes order under S. 31 and not when he merely obtains the order in his favour (Nov) 363

—Bombay Tenancy and Agricultural Lands Act (67 of 1948), (as amended by Bom Act 38 of 1957), S. 31 (3) — S. 31 (3) deals with disabled persons — Notice to be given within one year of the end of disability — See Tenancy Laws — Bombay Tenancy and Agriculture lands Act (67 of 1948) (as amended by Bom Act 38 of 1957), S. 32-F (1) (a), Proviso, 32G (Jul) 210

—Ss. 32-F (1) (a), Proviso, 32-G, 31 (3) (as amended by Bombay Act 38 of 1957), — Expression "such person" in proviso to S. 32-F (1) (a), meaning of — Requirements of proviso — Share of widow in joint family property other than agricultural land not separated by metes and bounds in partition — Partition held, did not satisfy requirements of proviso and could not have effect of postponing date on which tenant of lands allotted to widow would be entitled to become statutory purchaser of those lands (Jul) 210

—Bombay Tenancy and Agricultural Lands (Vidharbha Region and Kutch Area) Act (99 of 1958), Ss. 33 and 36 — Prohibition as to partition of lands of a tenant — Exceptions contained in proviso to S. 33 (1) — Scope of — Karta of joint family recorded as joint tenant with stranger — Death of Karta — Surviving members can claim only joint possession with stranger and cannot claim partition — But when joint family is sole tenant of land, surviving members can claim partition (Sep) 319

—S. 36 — Joint tenancy — When partition can be claimed — See Tenancy Laws — Bombay Tenancy and Agricultural Lands (Vidharbha Region and Kutch Area) Act (99 of 1958), S. 33 (Sep) 319

—S. 38 — Application under S. 38 by minor — Requirement of land bona fide — Alienations made by guardian, in contravention of Hindu Minority and Guardianship Act cannot be considered (Nov) 361

—Maharashtra Agricultural Lands (Ceiling on Holdings) Act (27 of 1961), S. 16 — Scope and applicability indicated — See Tenancy Laws — Maharashtra Agricultural Lands (Ceiling on Holdings) Act (27 of 1961), S. 33 (Jul) 218

Tenancy Laws (contd.)

—Maharashtra Agricultural Lands (Ceiling on Holdings) Act (contd.)

—S. 18 — No appeal against mere finding under Section 18 — See Tenancy Laws — Maharashtra Agricultural Lands (Ceiling on Holdings) Act (27 of 1961), S. 33 (Jul) 218

—S. 20 — Matters specified under Ss. 20, 18 and 19 — Decision on, before making declaration under Section 21 — Necessity pointed out — See Tenancy Laws — Maharashtra Agricultural Lands (Ceiling on Holdings) Act (27 of 1961), S. 33 (Jul) 218

—S. 21 — Before declaration under, Collector must decide matters under Ss. 18, 19 and 20 — See Tenancy Laws — Maharashtra Agricultural Lands (Ceiling on Holdings) Act (27 of 1961), S. 33 (Jul) 218

—S. 27 — Maharashtra Agricultural Lands (Ceiling on Holdings) Rules, 1962, Rr. 8, 10 — Procedure under R. 10 not followed — Notice under R. 8 will be premature (Jun) 198

—Ss. 33, 16, 18, 20 and 21 — Appeal under S. 33 when lies — Findings given under S. 18 — Appeal not maintainable (Jul) 218

—Maharashtra Agricultural Lands (Ceiling on Holdings) Rules 1962, R. 8 — Procedure under R. 10 not followed — Notice under R. 8 will be premature — See Tenancy Laws — Maharashtra Agricultural Lands (Ceiling on Holding) Act (27 of 1961), S. 27 (Jun) 198

—R. 10 — Procedure under the rule not followed — Notice under R. 8 will be premature — See Tenancy Laws — Maharashtra Agricultural Lands (Ceiling on Holdings) Act (27 of 1961), S. 27 (Jun) 198

Tort — Damages — Military truck driver by his negligent and rash driving killing a cyclist on the road — Computation of damages (Jan) 13B

—Damages — Mitigation of — See Contract Act (1872), S. 73 — Explanation

—Negligence — Suit for damages — Proof — Requirements — See Municipalities — Bombay District Municipal Act (3 of 1901), S. 167 (Apr) 127A

—Negligence — Liability for — When arises — See Municipalities — Bombay District Municipal Act (3 of 1901), S. 167 (Apr) 127E

—Negligence — Claim for damages — Mitigation of loss — It is duty of plaintiff to mitigate the loss (Apr) 127G

—Negligence — Liability for as principal for wrongs of his agents — See Municipalities — Bombay District Municipal Act (3 of 1901), S. 167 (Apr) 127H

—Vicarious liability — Tort by Government servant — State is not liable if it is committed in exercise of sovereign power — Sovereign power, what is — Military driver driving motor truck, carrying Record Sound

Tort (contd.)

Ranging Machine from military workshop to military school of Artillery — By rash and negligent driving a cyclist killed on the road — Driver held was not acting in exercise of sovereign power — Union of India held liable — O. S. Suit No. 2704 of 1948, D/- 29-9-1952 (Bom), **Overruled** (Jan) 13A

Trade and Merchandise Marks Act (43 of 1958), Preamble — Trade Marks — Modes of acquisition of proprietorship — See Trade and Merchandise Marks Act (1958), S. 12 (Jan) 24B

—S. 11 (a) — 'Likely to deceive or cause confusion' — Meaning of — Evidence — Admissibility — Factors creating confusion — All factors must be considered in combination — Onus of proving that mark is not calculated to deceive or cause confusion is on applicant (Jan) 24D

—Ss. 11 (c) and 18 (4) — Discretionary power under — Scope — Prohibition under Section 11 (e) must be restricted to some illegality inherent in mark itself (Jan) 24E

—S. 12 and Preamble — Trade marks — Modes of acquisition of proprietorship (Jan) 24B

—S. 18 (4) — Discretionary power under — Scope — See Trade and Merchandise Marks Act (1958), S. 11 (e) (Jan) 24E

—S. 18 (4) — Discretion to refuse registration — It is for protecting interests of general public (Jan) 24F

—Ss. 18 (4), 109 — Discretionary power of Dy. Registrar — Exercise of — When can be interfered with (Jan) 24G

—S. 28 — Burden of establishing proprietorship of trade mark lies on the applicant — See Evidence Act (1872), Ss. 101-104 (Jan) 24C

—S. 109 — Discretionary — Power of Dy. Registrar — Exercise of — When can be interfered with — See Trade and Merchandise Marks Act (1958), S. 18 (2) (Jan) 24G

Transfer of Property Act (4 of 1882), S. 3 — Definition of good faith in General Clauses Act, 1897 — Applicability of, to T. P. Act — See General Clauses Act (1897), S. 3 (22) (Apr) 127C

—S. 6 (h) — Auction sale under Bombay Land Revenue Code — Acceptance of minor's bid is illegality which vitiates sale — See Bombay Land Revenue Code (5 of 1879) S. 165 (Mar) 93

—S. 7 — Auction sale held under Bombay Land Revenue Code — Acceptance of minor's bid is illegality which vitiates sale — See Bombay Land Revenue Code (5 of 1879), S. 165 (Mar) 93

—Ss. 8 and 105 — Deed — Construction — Document on basis of which tenancy right is claimed — Interpretation of, is a question of law — Compromise purshis satisfying requirements of a contract of tenancy — It is not necessary to state expressly in document

Transfer of Property Act (contd.)

that certain person was accepted as tenant (Mar) 103E

—S. 8 — Terms of document — Construction — See Evidence Act (1872), S. 91 (Jul) 231A

—S. 53 — Declaratory suit by creditor under for a declaration that deed of assignment executed by defendant was void — Proper Court-fee would be under S. 6 (iv) (j) of Bombay Court Fees Act, 1959 — See Court-fees and Suits Valuations — Bombay Court Fees Act (36 of 1959), S. 6 (iv) (j) (Feb) 66A

—S. 62 — Suit for recovery of possession of mortgaged property from mortgagee — Covered by Cl. (x) of S. 6, Bombay Court-Fees Act — See Court-fees and Suits Valuations — Bombay Court-fees Act (36 of 1959), S. 6 (x) & (v) (Nov) 395B

—S. 92 — Consignee entitled to damages from railway — Payment made by insurer of goods — Insurer subrogated to right of consignee — See Railways Act (1890), S. 77 (old) (Dec) 401D

—S. 105 — Document on the basis of which Tenancy right is claimed construction — See T. P. Act, S. 8 (Mar) 103E

—S. 108 (j) — Contractual tenant and statutory tenant — Right to sublet — See Houses and Rents — Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 5 (Mar) 103C

—S. 111 (g) and (h) — Termination of tenancy — S. 53A of Bombay Housing Board Act (69 of 1948) abrogates S. 111 (g) and (h) — Notice to vacate under S. 53-A of Bombay Act amounts to termination of tenancy — See Houses and Rents — Bombay Housing Board Act (69 of 1948), S. 53A (Oct) 333C

—S. 116 — Tenant or his heirs holding over after expiry of lease are in judicial possession protected by law — See Limitation Act (1908), Art. 142 (Dec) 429

Trusts Act (2 of 1882), S. 78 — Power of revocation — Reservation to author — Power must have been reserved in the revocation deed itself (Mar) 101

Words and Phrases — "Ambiguous" — Word ambiguous means obscure or of double meaning (Jul) 231B

—Words "Any order" in Rule 7 of Companies (Court) Rules (1959), include order made by consent of parties — See Companies (Court) Rules (1959), R. 7 (Oct) 323A

—"Appoint" — Meaning — See Arbitration Act (1940), S. 8 (1) (b) (Jul) 227A

—"Dealer" — Meaning of — Dealer means a trader or a person who buys goods and sells them without processing them (Mar) 95A

—"Deliver possession" and "vacate" — Meaning of — See Houses and Rents — Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 16 (Oct) 348A

Words and Phrases (contd.)

- “Deemed to have” — Meaning of —
 See Industrial Employment (Standing Orders)
 Act (1946), S. 13A (Aug) 274D
 —“Good faith” — See Municipalities —
 Bombay District Municipal Act (3 of 1901),
 S. 167 (Apr) 127B
 —“Law for the time being in force” —
 Construction — See Defence of India Act
 (1939), S. 19 (1) (g) and (e) and Rules under
 Section (May) 151
 —“Offers for sale” — Meaning of — See
 Criminal P. C. (1898), S. 177 (Sep) 302D
 —“Other authorities” in Art. 12 of Consti-
 tution includes all constitutional or statutory

Words and Phrases (contd.)

- authorities on whom powers are conferred by
 law — “Life Insurance Corporation” does
 not come under “other authorities” — See
 Constitution of India, Art. 12 (Oct) 337A
 —“Rack-rent” — Meaning — See Presi-
 dency Small Cause Courts Act (1882), S. 41
 (Feb) 73
 —“Road” — Meaning of — See Minimum
 Wages Act (1948), Sch. I Part I Entry 7
 (Sep) 310B
 —“State” — Life Insurance Corporation is
 not “State” — See Constitution of India,
 Art. 12 (Oct) 337A

BOMBAY SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN AIR 1969

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
 REVERS.=Reversed in

Civil Procedure Code (5 of 1908)

- S. 13 — AIR 1951 Bom 125 (FB) —
 Held Impliedly Overruled by AIR
 1962 SC 1737 as interpreted. AIR
 1969 Guj 23 (Jan).
 —S. 13 — AIR 1951 Bom 190 — Held
 impliedly overruled by AIR 1962 SC
 1737 as interpreted. AIR 1969 Guj
 23 (Jan).
 —S. 45 — AIR 1951 Bom 125 (FB) —
 Held impliedly overruled by AIR 1962
 SC 1737 as interpreted. AIR 1969 Guj
 23 (Jan).
 —S. 45 — AIR 1951 Bom 190 — Held im-
 pliedly overruled by AIR 1962 SC 1737
 as interpreted. AIR 1969 Guj 23
 (Jan).
 —O. 8, R. 5 — AIR 1936 Bom 285 —
 Diss. AIR 1969 Punj 329 (Sep).
 —O. 8, R. 5 — AIR 1938 Bom 470 —
 Diss. AIR 1969 Punj 329 (Sep).
 —O. 22, R. 9 — (1904) 6 Bom LR 638
 —Diss. AIR 1969 Mad 426 (Nov).
 —O. 23, R. 1 (2) (a) (b) — AIR 1940
 Bom 121 (FB) — Diss. AIR 1969
 Mys 141 (Apr).

Companies Act (1 of 1956)

- S. 220 (1) — AIR 1948 Bom 357 —
 Held no longer good law in view of
 AIR 1961 SC 186 as interpreted.
 AIR 1969 Orissa 234 (Sep).

Constitution of India

- Art. 14 — (1967) 64 ITR 637 (Bom)
 — Diss. AIR 1969 Madh Pra 220A
 (Oct).
 —Art. 226 — AIR 1957 Bom 246 — Held
 not good law in view of AIR 1962 SC
 1110 as interpreted. AIR 1969 Madh
 Pra 234A (Nov).

CO-OPERATIVE SOCIETIES

- Maharashtra Co-operative Societies Act
 (24 of 1961)
 —S. 2 (2) — AIR 1964 Bom 147 — Held
 not overruled by AIR 1967 SC 1494
 as interpreted. AIR 1969 SC 724A
 (Aug).
 —S. 95 — AIR 1964 Bom 147 — Held
 not overruled by AIR 1967 SC 1494 as
 interpreted. AIR 1969 SC 724A (Aug).
 —S. 96 — AIR 1964 Bom 147 — Held
 not overruled by AIR 1967 SC 1494 as
 interpreted. AIR 1969 SC 724A (Aug).

COURT FEES AND SUITS VALUATIONS

—Court Fees Act (7 of 1870)

- S. 5 — AIR 1927 Bom 643 — Diss.
 AIR 1969 All 484A (Oct) (FB).
 —S. 6-C — AIR 1927 Bom 643 — Diss.
 AIR 1969 All 484A (Oct) (FB).

Criminal Procedure Code (5 of 1898)

- S. 190 — AIR 1959 Bom 437 — Diss.
 AIR 1969 Ker 111E (Apr).
 —S. 367 (5) — AIR 1966 Bom 179 —
 Over. AIR 1969 Bom 294A (FB) (Sep).
 —S. 367 (5) — AIR 1968 Bom 127 —
 Over. AIR 1969 Bom 294A (FB) (Sep).
 —S. 488 (1) — AIR 1949 Bom 36 —
 Diss. AIR 1969 Delhi 235A (Aug).

DEBT LAWS

- Bombay Agricultural Debtor's Relief Act
 (28 of 1947)
 —S. 38 — (1957) 59 Bom LR 610 —
 Over. AIR 1969 Bom 74A (Feb).
 —S. 43 — (1957) 59 Bom LR 610 —
 Over. AIR 1969 Bom 74A (Feb).

Debt Laws — Bombay Agrl. Debtor's Relief Act (contd.)

- S. 46 — (1957) 59 Bom LR 610 — Over. AIR 1969 Bom 74A (Feb).

Electricity Act (9 of 1910)

- S. 3 — AIR 1955 Bom 182 — Held overruled by AIR 1964 SC 1598 as interpreted. AIR 1969 Guj 40 (Feb).

Electricity (Supply) Act (54 of 1948)

- S. 57 — AIR 1955 Bom 182 — Held overruled by AIR 1964 SC 1598 as interpreted. AIR 1969 Guj 40 (Feb).
—Sch. VI, Cl. 1 — AIR 1955 Bom 182 — Held overruled by AIR 1964 SC 1598 as interpreted. AIR 1969 Guj 40 (Feb).

Evidence Act (1 of 1872)

- S. 91 — AIR 1958 Bom 8 — Diss. AIR 1969 Guj 169 (Jun).
—S. 92 — AIR 1958 Bom 8 — Diss. AIR 1969 Guj 169 (Jun).

Guardians and Wards Act (8 of 1890)

- S. 17 — AIR 1922 Bom 405 — Diss. AIR 1969 Mad 365A (Sep).
—S. 17 — AIR 1941 Bom 103 — Diss. AIR 1969 Mad 365A (Sep).
—S. 19 (b) — AIR 1922 Bom 405 — Diss. AIR 1969 Mad 365A (Sep).
—S. 19 (b) — AIR 1941 Bom 103 — Diss. AIR 1969 Mad 365A (Sep).
—S. 25 — AIR 1922 Bom 405 — Diss. AIR 1969 Mad 365A (Sep).
—S. 25 — AIR 1941 Bom 103 — Diss. AIR 1969 Mad 365A (Sep).

Hindu Adoptions and Maintenance Act (78 of 1956)

- S. 4 — AIR 1966 Bom 174 — Diss. AIR 1969 Mad 72E (Mar).
—S. 5 — AIR 1966 Bom 174 — Diss. AIR 1969 Mad 72E (Mar).
—S. 7 — AIR 1966 Bom 174 — Diss. AIR 1969 Mad 72E (Mar).
—S. 8 — AIR 1956 Bom 174 — Diss. AIR 1969 Mad 72E (Mar).
—S. 11 — AIR 1956 Bom 174 — Diss. AIR 1969 Mad 72E (Mar).
—S. 12 — AIR 1966 Bom 174 — Diss. AIR 1969 Mad 72E (Mar).
—S. 14 — AIR 1966 Bom 174 — Diss. AIR 1969 Mad 72E (Mar).

Hindu Marriage Act (25 of 1955)

- S. 24 — AIR 1960 Bom 315 — Diss. AIR 1969 All 601 (Dec).
—S. 28 — AIR 1960 Bom 315 — Diss. AIR 1969 All 601 (Dec).

HOUSES & RENTS**—C. P. and Berar Regulation of Letting of Accommodation Act (11 of 1946)**

- S. 2 — AIR 1959 Bom 98 — Diss. AIR 1969 Madh Pra 130A (Jul).
—S. 6 — AIR 1959 Bom 98 — Diss. AIR 1969 Madh Pra 130A (Jul).

Income-tax Act (11 of 1922)

- S. 2 (6A) — ('49) I. T. Ref. No. 16 of 1948, D/- 23-9-1949 (Bom) — Over. AIR 1969 SC 840 A (Oct).
—S. 2 (11) (as it stood before its amendment by Finance Act of 1955) — ('63) 49 ITR 369 (Bom) — Partly Revers. AIR 1969 SC 292 (Apr).
—S. 4 — ('49) I. T. Ref. No. 16 of 1948, D/- 23-3-1949 (Bom) — Over. AIR 1969 SC 840A (Oct).
—S. 10 (1) — ('49) I. T. Ref. No. 16 of 1948, D/- 23-3-1949 (Bom) — Over. AIR 1969 SC 840A (Oct).
—S. 10 (2) — AIR 1956 Bom 415 — Over. AIR 1969 SC 812A (Sep).
—S. 10 (2) — AIR-1959 Bom 150 — Over. AIR 1969 SC 812A (Sep).
—S. 23A (1) (as it stood before its amendment by Finance Act of 1955) — ('63) 49 ITR 369 (Bom) — Partly Revers. AIR 1969 SC 292 (Apr).
—S. 66 (1) — (1946) 14 ITR 272 (Bom) — Diss. AIR 1969 Punj 8 (Jan).
—S. 66 (1) (2) — ('66) I. T. Ref. No. 73 of 1962, D/- 2-3-1966 (Bom) — Revers. AIR 1969 SC 460 (Jun).

Income-tax Act (43 of 1961)

- S. 64 (v) — AIR 1954 Bom 219 — Over. AIR 1969 SC 888B (Oct).
—S. 161 (2) — AIR 1954 Bom 219 — Over. AIR 1969 SC 888B (Oct).
—S. 297 (2) (f) and (g) — (1967) 64 ITR 637 (Bom) — Diss. AIR 1969 Madh Pra 220A (Oct).

Industrial Disputes Act (14 of 1947)

- S. 2 (j) — ('65) I. T. No. 347 of 1964, D/- 30-6-1965 (Bom) — Revers. AIR 1969 SC 276 (Apr).
—S. 15 — AIR 1924 Bom 88 — Held no longer good law in view of AIR 1950 SC 188 in AIR 1969 Pat. 53D (Feb).
—S. 15 — AIR 1943 Bom 453 — Held no longer good law in view of AIR 1950 SC 188. AIR 1969 Pat 53D (Feb).
—S. 33C (2) — Observations in AIR 1963 Bom 189 — Held overruled by AIR 1964 SC 743 as interpreted. AIR 1969 Punj 310B (Sep).
—S. 33C (2) — (1968) 70 Bom LR 104 Over. AIR 1969 SC 1335 (Dec).
—Sch. III, Item 5 — AIR 1924 Bom 88 — Held no longer good law in view of

Industrial Disputes Act (contd.)

AIR 1950 SC 188. AIR 1969 Pat 53D (Feb).
 — Sch. III, Item 5 — AIR 1943 Bom 453
 — Held no longer good law in view of
 AIR 1950 SC 188. AIR 1969 Pat 53D
 (Feb).

Limitation Act (36 of 1963)

— Art. 137 — (1968) 70 Bom LR 104 —
 Over. AIR 1969 SC 1335 (Dec).

Motor Vehicles Act (4 of 1939)

— S. 46 — ('67) Spl. Civil Appln. Nos. 575
 to 596, 634, 540, 570 to 572 of 1967,
 D/- 20-10-1967 (Bom) — Revers. AIR
 1969 SC 329A (Apr).
 — S. 48 — ('67) Spl. Civil Appln. Nos. 575
 to 596, 634, 540 and 570 to 572 of
 1967, D/- 20-10-1967 (Bom) — Revers.
 AIR 1969 SC 329A (Apr).
 — S. 48 — ('67) Spl. Civil Appln. Nos. 575
 to 596, 634, 540 and 570 to 572 of
 1967, D/- 20-10-1967 (Bom) — Revers.
 AIR 1969 SC 329B (Apr).
 — S. 48 — ('67) Spl. Civil Appln. Nos. 575
 to 596, 634, 540 and 570 to 572 of
 1967, D/- 20-10-1967 (Bom) — Revers.
 AIR 1969 SC 329D (Apr).
 — S. 57 — ('67) Spl. Civil Appln. Nos. 575
 to 596, 634, 540, 570 to 572 of 1967,
 D/- 20-10-1967 (Bom) — Revers. AIR
 1969 SC 329F (Apr).

Motor Vehicles Act (contd.)

— S. 58 (1) (a) — ('67) Spl. Civil Appln.
 Nos. 575 to 596, 634, 540, 570 to 572
 of 1967, D/- 20-10-1967 (Bom) —
 Revers. AIR 1969 SC 329 (Apr).

Payment of Wages Act (4 of 1936)

— S. 9 — (1960) 2 Lab LJ 99 (Bom) —
 Diss. AIR 1969 Andh Pra 200 (Jun).
 — S. 15 (2) (3) — (1960) 2 Lab LJ 99
 (Bom) — Diss. AIR 1969 Andh Pra
 200 (Jun).

Registration Act (16 of 1908)

— S. 17 — AIR 1917 Bom 203 — Held
 no longer good law in view of T. P.
 (Amendment) Supplementary Act (1929).
 AIR 1969 SC 1316 A (Dec).
 — S. 49 — AIR 1917 Bom 203 — Held
 no longer good law in view of T. P.
 (Amendment) Supplementary Act (1929).
 AIR 1969 SC 1316A (Dec).

Tort

— Vicarious liability — ('52) O. S. Suit
 No. 2704 of 1948, D/- 29-9-1952 (Bom)
 — Over. AIR 1969 Bom 13A (Jan).

Transfer of Property Act (4 of 1882)

— S. 91 — ILR 20 Bom 549 — Diss. AIR
 1969 Ker 73 (Mar).

BOMBAY CASES OVERRULED, REVERSED, AND DISSENTED FROM ETC. IN AIR 1969

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
 REVERS.=Reversed in

- (1896) ILR 20 Bom 549, Nagaya v. Baji Babaji Moholkar — Diss. AIR 1969 Ker 73 (Mar).
- (1940) 6 Bom LR 638, Jayasingh v. Gopal — Diss. AIR 1969 Mad 426 (Nov).
- ('17) AIR 1917 Bom 203 = ILR 41 Bom 550, Dawal v. Sharma — Held no longer good law in view of T. P. (Amendment) Supplementary Act (21 of 1929) AIR 1969 SC 1316A (Dec).
- ('22) AIR 1922 Bom 405 = 24 Bom LR 779, Bai Tara v. Mohanlal Lallubhai — Diss. AIR 1969 Mad 365A (Sep).
- ('24) AIR 1924 Bom 88 = 25 Bom LR 599, Natha Gulab & Co. v. W. G. Shaller Held no longer good law in view of AIR 1950 SC 188 in AIR 1969 Pat 53D (Feb).
- ('27) AIR 1927 Bom 643 = ILR 52 Bom 61 Gangaram Tilockchand v. Chief Controlling Rev. Authority — Diss. AIR 1969 All 484A (Oct) (FB).
- ('36) AIR 1936 Bom 285 = 38 Bom LR 577, Shriram Surajmal v. Shriram Jhunjhunwala — Diss. AIR 1969 Punj 329 (Sep).
- ('38) AIR 1938 Bom 470 = 40 Bom LR 972, Vinayak Shreedhar Kulkarni v. Chintaman Waman Kulkarni — Diss. AIR 1969 Punj 329 (Sep).
- ('40) AIR 1940 Bom 121 = 42 Bom LR 143 (FB), Ramrao Bhagwantrao v. Babu Appanna — Diss. AIR 1969 Mys 141 (Apr).
- ('41) AIR 1941 Bom 103 = ILR (1941) Bom 455, Saraswati Bai v. Sripad — Diss. AIR 1969 Mad 365A (Sep).
- ('43) AIR 1943 Bom 453 = 45 Bom LR 816, Usman Abubakar v. Chief Accounts Officer G. I. P. Rly. — Held no longer good law in view of AIR 1950 SC 188. AIR 1969 Pat 53D (Feb).
- (1946) 14 ITR 272 (Bom), Vissonji Sons and Co. v. Commr. of I. T. Central — Diss. AIR 1969 Punj 8 (Jan).
- ('48) AIR 1948 Bom 357 = 49 Cri LJ 515, Emperor v. Pioneer Clay and Industrial Work Ltd., — Held no longer good law in view of AIR 1961 SC 186 as interpreted. AIR 1969 Orissa 234 (Sep).
- ('49) AIR 1949 Bom 36 = 49 Cri LJ 630, Ranchhoddas v. Emperor — Diss. AIR 1969 Delhi 235A (Aug).

- (49) I. T. Ref. No. 16 of 1948, D/- 23-3-1949 (Bom), Commr. of I. T. Central Bombay v. Maniklal Chunnilal & Sons Ltd., Bombay — Over. AIR 1969 SC 840A (Oct).
- (51) AIR 1951 Bom 125 = 53 Bom LR 398 (FB), Bhagwan Shankar v. Rajaram Bapu Vithal — Held impliedly overruled by AIR 1962 SC 1737 as interpreted AIR 1969 Guj 23 (Jan).
- (51) AIR 1951 Bom 190 = ILR 1950 Bom 640, Chunnilal Kasturchand v. Dundappa Damappa — Held impliedly overruled by AIR 1962 SC 1737 as interpreted. AIR 1969 Guj 23 (Jan).
- (52) O. S. Suit No. 2704 of 1948, D/- 29-9-1952 (Bom) — Over. AIR 1969 Bom 13A (Jan).
- (54) AIR 1954 Bom 219 = (1953) 25 ITR 37, Saifuddin Ali Mohamed v. Commr. of I. Tax — Over. AIR 1969 SC 888B (Oct).
- (55) AIR 1955 Bom 182 = ILR 1955 Bom 42 = 56 Bom LR 994, Babulal Chaganlal v. Chopda Electric Supply Co. Ltd. — Held overruled by AIR 1964 SC 1598 as interpreted. AIR 1969 Guj 40 (Feb).
- (56) AIR 1956 Bom 415 = (1955) 28 ITR 928, Commr. of I. Tax v. Sir Homi Mehta's Executor's — Over. AIR 1969 SC 812A (Sep).
- (57) AIR 1957 Bom 246 = 59 Bom LR 569, Nanik Dharamdas Vazirani v. Maharaja Sayajirao University, Board — Held not good law in view of AIR 1962 SC 1110 as interpreted. AIR 1969 Madh Pra 234A (Nov).
- (1957) 59 Bom LR 610, Jankibai Abaji v. Bhikaji Raghunath — Over. AIR 1969 Bom 74A (Feb).
- (58) AIR 1958 Bom 8 = ILR (1958) Bom 765, Harilal Bhagwanji v. Shastri Hamshankar Umashankar — Diss. AIR 1969 Guj 169 (Jun).
- (59) AIR 1959 Bom 98 = 1958 Nag LJ 392, Trilokchand v. Ganpatdas — Diss. AIR 1969 Madh Pra 130A (Jul).
- (59) AIR 1959 Bom 150 = 34 ITR 336, Rogeis and Co. v. Commr. of I. T. — Over. AIR 1969 SC 812A (Sep).
- (59) AIR 1959 Bom 437 = 1959 Cri LJ 1153, State v. Shanker — Diss. AIR 1969 Ker 111E (Apr).
- (60) AIR 1960 Bom 315 = ILR (1960) Bom 164, Prithvi Raj Singhji Mansinghji v. Bai Shiv Prabhakumari — Diss. AIR 1969 All 601 (Dec).
- (1960) 2 Lab LJ 99 (Bom), Jerry Sabastian v. Badshah — Diss. AIR 1969 Andh Pra 200 (Jun).
- (63) Observations in AIR 1963 Bom 189 = ILR (1963) Bom 594, Savatram Ramprasad Mills Co. Ltd., Akola v. Baliram Ukandaji — Held overruled by AIR 1964 SC 743 as interpreted. AIR 1969 Punj 310B (Sep).
- (1963) 49 ITR 369 (Bom), Shree Goverdhan Ltd. v. Commr. of I. T. — Partly Revers. AIR 1969 SC 292 (Apr).
- (64) AIR 1964 Bom 147 = (1964) 1 Cri LJ 652, Malbar Hill Co-operative Housing Society Ltd., Bom. v. K. L. Gauba — Held not overruled by AIR 1967 SC 1494 as interpreted. AIR 1969 SC 724A (Aug).
- (65) I. T. No. 347 of 1964, D/- 30-6-1965 (Bom) — Revers. AIR 1969 SC 276 (Apr).
- (66) AIR 1966 Bom 174 = 67 Bom LR 864, Ankush v. Janabai — Diss. AIR 1969 Mad 73E (Mar).
- (66) AIR 1966 Bom 179 = 1968 Bom LR 236 = 1966 Cri LJ 875, State of Maharashtra v. Gourishankar Kawadu — Over. AIR 1969 Bom 294A (Sep) (FB).
- (66) Income-tax Ref. No. 73 of 1962, D/- 2-3-1966 (Bom) — Revers. AIR 1969 SC 460 (Jun).
- (1967) 64 ITR 637 = ILR (1968) Bom 33, Shakti Offset Works v. Inspecting Assistant Commr. of Income-tax — Diss. AIR 1969 Madh Pra 220A (Oct).
- (67) Spl. Civil Appln. Nos. 575 to 596, 634, 540 and 570 to 572 of 1967, D/- 20-10-1967 (Bom) — Revers. AIR 1969 SC 329A, B, D, F (Apr).
- (68) AIR 1968 Bom 127 = 1968 Cri LJ 453, Palaniswami v. State — Over. AIR 1969 Bom 294A (Sep) (FB).
- (68) 70 Bom LR 104 = 2 Lab LJ 505, Manager M/s. P. K. Porwal v. Labour Court, Nagpur — Over. AIR 1969 SC 1335C (Dec).

NAGPUR SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN AIR 1969

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
REVERS.=Reversed in

Civil Procedure Code (5 of 1908)

- S. 2 (2) — AIR 1931 Nag 54 — Diss.
AIR 1969 All 296 (Jun) (FB).
- S. 36 — AIR 1945 Nag 134 — Diss.
AIR 1969 Guj 28 (Jan).
- S. 47 — AIR 1931 Nag 54 — Diss.
AIR 1969 All 296 (Jun) (FB).
- S. 73 — AIR 1929 Nag 148 — Diss.
AIR 1969 Guj 200 (Jul).
- S. 94 — AIR 1945 Nag 134 — Diss.
AIR 1969 Guj 28 (Jan).
- O. 6, R. 17 — AIR 1953 Nag 273 —
Diss. AIR 1969 Ker 75 (Mar).
- O. 7, R. 10 — AIR 1953 Nag 273 —
Diss. AIR 1969 Ker 75 (Mar).
- O. 21, R. 1 (2) — AIR 1939 Nag 191
— Diss. AIR 1969 Ker 8 (Jan).
- O. 21, R. 11 (2) (j) — AIR 1929 Nag
148 — Diss. AIR 1969 Guj 200 (Jul).
- O. 21, R. 32 — AIR 1945 Nag 134 —
Diss. AIR 1969 Guj 28 (Jan).
- O. 23, R. 1 — AIR 1953 Nag 273 —
Diss. AIR 1969 Ker 75 (Mar).
- O. 23, R. 3 — AIR 1931 Nag 54 —
Diss. AIR 1969 All 296 (FB) (Jun).
- O. 39, R. 1 — AIR 1945 Nag 134 —
Diss. AIR 1969 Guj 28 (Jan).

Civil P. C. (contd.)

- O. 39, R. 2 (3) — AIR 1945 Nag 134 —
Diss. AIR 1969 Guj 28 (Jan).

Contract Act (9 of 1872)

- S. 186 — AIR 1947 Nag 17 — Not F.
AIR 1969 Andh Pra 211 (Jul).
- S. 188 — AIR 1947 Nag 17 — Not F.
AIR 1969 Andh Pra 211 (Jul).

CO-OPERATIVE SOCIETIES

- Maharashtra Co-operative Societies Act (24
of 1961)
- S. 91 (1) — AIR 1946 Nag 16 —
Over. AIR 1969 SC 1320C (Dec).

Criminal Procedure Code (5 of 1898)

- S. 422 — AIR 1954 Nag 231 — Held
not good law in view of AIR 1960 SC
756 as interpreted. AIR 1969 Ker
250 (Sep).
- S. 488 (1) — AIR 1922 Nag 249 (1)
— Diss. AIR 1969 Delhi 235A (Aug).

HOUSES & RENTS

- C. P. and Berar Letting of Houses and
Rent Control Order (1949)
- Cl. 13 — 1953 Nag LJ (Notes) 211 —
Not F. AIR 1969 Bom 393A (Nov).

NAGPUR CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN AIR 1969

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
REVERS.=Reversed in

- (22) AIR 1922 Nag 249 (1) = 23 Cri LJ
167, Gangaramsa v. Vishnusa — Diss.
AIR 1969 Delhi 235A (Aug).
- (29) AIR 1929 Nag 148 = 25 Nag LR 94,
Balaji v. Gopal — Diss. AIR 1969 Guj
200 (July).
- (31) AIR 1931 Nag 54 = 26 Nag LR 353,
Dada v. Ganpat Rao — Diss. AIR 1969
All 296 (Jun) (FB).
- (39) AIR 1939 Nag 191 = 1939 Nag LJ
211, Laxminarayan Ganeshdas v. Ghasi-
ram Dulchand Paliwal — Diss. AIR
1969 Ker 8 (Jan).
- (45) AIR 1945 Nag 134 = ILR 1945, Nag
336 Pannalal Bose v. Shreeram Dalu-
ram — Diss. AIR 1969 Guj 28 (Jan).
- (46) AIR 1946 Nag 16 = ILR (1945), Nag
677, Kisan Lal v. Co-operative Central
Bank Ltd., Seoni — Over. AIR 1969
SC 1320C (Dec).
- (47) AIR 1947 Nag 17 = ILR (1946) Nag
824, Jiwibai v. Ramkumar — Not. F.
AIR 1969 Andh Pra 211 (Jul).
- (53) AIR 1953 Nag 273 = ILR 1953 Nag
792, Lalji v. Narottam — Diss. AIR
1969 Ker 75 (Mar).
- (53) 1953 Nag LJ (Notes) 211, Ramgulam
v. Ganesh Prasad — Not F. AIR 1969
Bom 393A (Nov).
- (54) AIR 1954 Nag 231 = 1954 Cri LJ
1042, State Govt. of M. P. v. Vishwa-
nath Nidhanji — Held not good law in
view of AIR 1960 SC 756 as interpret-
ed. AIR 1969 Ker 250 (Sep).

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years.

Owing to late receipt of other Journals the following *supplement* to comparative tables of A. I. R. = Other Journals is issued.

A. I. R. Bombay = Other Journals

AIR 1967 Bombay		AIR 1968 Bombay		AIR 1968 Bombay		AIR 1968 Bombay	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
174	ILR (1968) Bom 861	21	ILR (1968) Bom 249	254	ILR (1968) Bom 137	336	ILR (1968) Bom 1167
369	ILR (1968) Bom 178	39	ILR (1968) Bom 776	259	ILR (1968) Bom 113	340	ILR (1968) Bom 675
394	ILR (1968) Bom 616	65	ILR (1968) Bom 339	267	ILR (1968) Bom 643	361	ILR (1968) Bom 130
416	(1969) 2		1968 Serv L R 273	273	ILR (1968) Bom 847	363	ILR (1968) Bom 556
	Lab L J 300	88	ILR (1969) Bom 757	277	ILR (1969) Bom 1	366	ILR (1969) Bom 7
	ILR (1968) Bom 153	91	ILR (1968) Bom 77	279	ILR (1968) Bom 554	370	ILR (1968) Bom 1212
421	ILR (1968) Bom 166	98	ILR (1968) Bom 491	280	ILR (1968) Bom 325	380	ILR (1968) Bom 381
434	ILR (1968) Bom 291	100	ILR (1968) Bom 657	290	ILR (1969) Bom 478	381	ILR (1968) Bom 687
472	ILR (1968) Bom 262	106	ILR (1968) Bom 706	294	ILR (1968) Bom 538	387	ILR (1968) Bom 564
		151	ILR (1968) Bom 100	304	ILR (1968) Bom 191	395	ILR (1968) Bom 568
		204	ILR (1968) Bom 610	309	ILR (1968) Bom 549	426	ILR (1969) Bom 266
		208	ILR (1968) Bom 376	311	ILR (1968) Bom 842	433	ILR (1968) Bom 230
		208	ILR (1968) Bom 1	323	ILR (1963) Bom 831	439	ILR (1969) Bom 185
		219	ILR (1968) Bom 1157	328	ILR (1968) Bom 219	443	ILR (1968) Bom 991
		229	ILR (1968) Bom 434	332	ILR (1963) Bom 793	445	ILR (1969) Bom 287
AIR 1968 Bombay							
AIR	Other Journals						
1	ILR (1968) Bom 383						

A. I. R. 1969 Bombay = Other Journals

AIR Other Journals		AIR Other Journals		AIR Other Journals		AIR Other Journals	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [CN 1]	70 Bom L R 383	66 [CN 10]	70 Bom L R 359	95con(1968) 2 Lab L J 744	1969 Lab I O 263	169con(1969) Bom 334	1969 Cri L J 706
	1968 Mah L J 620		1968 Mah L J 593		35 F J R 77	194 [CN 31]	1969 Mah L J 30
	1969 Cri L J 105	70 [CN 11]	1968 Mah L J 685	101 [CN 20]	70 Bom L R 568		70 Bom L R 390
	ILR (1969) Bom 194		70 Bom L R 792		1968 Mah L J 750		(1968) 2 Com L J 151
7 [CN 2]	1968 Mah L J 678		1969 Cri L J 298	103 [CN 21]	70 Bom L R 428		ILR (1969) Bom 315
	ILR (1969) Bom 495		ILR (1969) Bom 120		1968 Mah L J 901		39 Com Cas 735
	71 Bom L R 123	71 [CN 12]	70 Bom L R 515		ILR (1969) Bom 536		1969 Ren C R 451
13 [CN 3]	70 Bom L R 212		1968 Mah L J 709	111 [CN 22]	70 Bom L R 376	198 [CN 32]	1968 Mah L J 855
	1968 Mah L J 468		1969 Cri L J 300		ILR (1969) Bom 766		71 Bom L R 133
	ILR (1968) Bom 998		ILR (1969) Bom 247				ILR (1969) Bom 510
20 [CN 4]	70 Bom L R 399	73 [CN 13]	70 Bom L R 394	117 [CN 23]	70 Bom L R 546	199 [CN 33]	1968 Mah L J 725
	1968 Mah L J 646		1968 Mah L J 835		1968 Mah L J 748		71 Bom L R 99
	1969 Cri L J 112		ILR (1968) Bom 855	119 [CN 24]	70 Bom L R 481		1969 Cri L J 711
	ILR (1969) Bom 552	74 [CN 14]	70 Bom L R 438		ILR (1969) Bom 38		ILR (1969) Bom 804
24 [CN 5]	70 Bom L R 37		ILR (1968) Bom 743	127 [CN 25]	70 Bom L R 554	205 [CN 34]	70 Bom L R 773
40 [CN 6]	70 Bom L R 195	77 [CN 15]	1968 Mah L J 441		1968 Mah L J 916		1969 Mah L J 43
49 [CN 7]	70 Bom L R 224		70 Bom L R 517		ILR (1969) Bom 564		ILR (1969) Bom 252
	1968 Mah L J 532	84 [CN 16]	70 Bom L R 378	140 [CN 26]	70 Bom L R 456	210 [CN 35]	70 Bom L R 689
	1969 Ben C R 705		1969 Mah L J 49		1968 Mah L J 665		1969 Mah L J 35
54 [CN 8]	70 Bom L R 404	90 [CN 17]	70 Bom L R 412		ILR (1968) Bom 1245		ILR (1969) Bom 68
	1968 Mah L J 631		1968 Mah L J 732	151 [CN 27]	70 Bom L R 682	213 [CN 36]	1968 Mah L J 858
	ILR (1968) Bom 768		ILR (1969) Bom 19		70 Bom L R 364		71 Bom L R 135
56 [CN 9]	1967 Mah L J	93 [CN 18]	70 Bom L R 442		1968 Mah L J 635		ILR (1970) Bom 121
	(Notes) 40		1968 Mah L J 883	163 [CN 28]	70 Bom L R 466	218 [CN 37]	1968 Mah L J 736
	70 Bom L R 288	95 [CN 19]	70 Bom L R 500		1968 Mah L J 784		71 Bom L R 111
	1968 Mah L J 377		1968 Mah L J 717	177 [CN 29]			ILR (1969) Bom 819
	(1968) 2 Lab L J 767			189 [CN 30]		221 [CN 38]	1968 Mah L J 762
	1969 Lab I C 133						70 Bom L R 768
	ILR (1969) Bom 455						ILR (1969) Bom 324

All India Reporter — Other Journals (concl'd.)

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
224 [ON 39]	71 Bom L R 302 ILR (1969) Bom 446	310 [ON 48]	70 Bom L R 548 1968 Mah L J 771 17 Fac L R 266 (1968) 2 Lab L J 750	348 [ON 56]	70 Bom L R 710 1968 Mah L J 893 ILR (1969) Bom 1015 1969 Ren C R 692	373 [ON 64]	1969 Lab I C 1324
227 [ON 40]	71 Bom L R 312 1969 Mah L J 458	315 [ON 49]	70 Bom L R 563 1968 Mah L J 712	351 [ON 57]	71 Bom L R 79 1969 Mah L J 887 1969 Cri L J 1341	383 [ON 65]	ILR (1969) Bom 927 1969 Cri L J 1351
231 [ON 41] ...		319 [ON 50]	1969 Mah L J 53 71 Bom L R 129 ILR (1969) Bom 826	353 [ON 58]	70 Bom L R 794 ILR (1968) Bom 1305 1969 Cri L J 1344	393 [ON 66]	1969 Mah L J 421 71 Bom L R 556
255 [ON 42] ...		323 [ON 51]	39 Com Cas 436 (1969) 2 Com L J 91	360 [ON 59]	70 Bom L R 693 1968 Mah L J 877 ILR (1968) Bom 1302 1969 Cri L J 1350	395 [ON 67]	71 Bom L R 279 1969 Mah L J 445 ILR (1969) Bom 979
274 [ON 43]	70 Bom L R 506 (1968) 2 Lab L J 193 17 Fac L R 324 1969 Lab I C 934 ILR (1969) Bom 783	328 [ON 52]	71 Bom L R 38 1969 Mah L J 292	361 [ON 60]	1969 Mah L J 141 71 Bom L R 330 ILR (1969) Bom 999	397 [ON 68]	71 Bom L R 465 1969 Mah L J 664 ILR (1969) Bom 1013
282 [ON 44]	71 Bom L R 31 1969 Mah L J 314 ILR (1969) Bom 125	333 [ON 53]	71 Bom L R 168 1969 Mah L J 383 ILR (1969) Bom 837 1969 Ren C R 332	363 [ON 61]	71 Bom L R 364 1969 Mah L J 640	401 [ON 69]	1968 Mah L J 797 71 Bom L R 214 ILR (1969) Bom 864 1969 A C J 248
285 [ON 45]	70 Bom L R 778 1969 Mah L J 91 ILR (1968) Bom 1180 1969 Cri L J 1038	337 [ON 54]	71 Bom L R 286 1969 Mah L J 559 1969 Lab I C 1198	366 [ON 62]	1969 Mah L J 219 71 Bom L R 317 ILR (1969) Bom 232	423 [ON 70]	71 Bom L R 340
294 [ON 46]	71 Bom L R 1 1969 Mah L J 208 ILR (1969) Bom 422 1969 Cri L J 1101	342 [ON 55]	71 Bom L R 179 1969 Mah L J 566 1969 Ren C R 800	370 [ON 63]	71 Bom L R 35 ILR (1968) Bom 1397 1969 Mah L J 328	429 [ON 71]	1969 Mah L J 356 71 Bom L R 727
FB						433 [ON 72]	71 Bom L R 485 1969 Mah L J 746
302 [ON 47]	1969 Mah L J 188 71 Bom L R 409 1969 Cri L J 1109					437 [ON 73] ...	
						447 [ON 74]	71 Bom L R 156 1969 Mah L J 512

1969 Lab I C			1968 Mah L J			1969 Mah L J			1969 Mah L J			1969 Mah L J		
Lab IC	AIR		Mah LJ	AIR		Mah LJ	AIR		Mah LJ	AIR		Mah LJ	AIR	
1389	1969	SC 992	377	1969	Bom 56	1	1969	SC 78	370	1969	SC 37	732	1970	Bom 101
1396	"	" 998	441	"	" 77	17	1968	" 1395	383	"	Bom 333	740	"	" 93
1402	"	" 1020	532	"	" 49	30	1969	Bom 194	387	"	" 351	746	1969	" 433
1406	"	Punj 391	593	"	" 66	35	"	" 210	391	"	SC 63	776	1970	SC 161
1460	"	All 594	631	"	" 54	43	"	" 205	398	1970	Bom 67	780	1969	" 270
1467	"	Cal 576	635	"	" 163	49	"	" 84	407	1969	SC 276	848	"	" 590
1468	"	" 604	665	"	" 140	53	"	" 319	417	"	" 313	855	"	" 496
1470	"	Ker 310	685	"	" 70	58	1970	" 48	421	"	Bom 393	865	1968	" 594
1473	"	" 313	709	"	" 71	91	1969	" 285	425	1970	" 96	890	1969	" 321
1476	"	" 317	712	"	" 315	103	1970	Lab	435	"	" 1	926	1970	" 343
1479	"	MP 248	717	"	" 95			I C 148	445	1969	" 395	950	"	" 93
1482	"	Mad 407	725	"	" 199	110	1968	SC 822	447	1970	Bom 86	956	1969	" 119J
1483	"	" 440	732	"	" 90	141	1969	Bom 361	458	1969	" 227			
1484	"	" 477	736	"	" 218	153	1968	SC 938	476	1970	" 23			
1486	"	Mys 348	748	"	" 117	171	1970	Lab	487	"	" 109			
1488	"	" 355	750	"	" 101			I C 225	495	1969	SC 560			
1492	"	" 362	762	"	" 221	188	1969	Bom 302	512	"	" 447			
1498	"	Pat 371	771	"	" 310	208	"	" 294	513	"	" 439			
1513	"	Punj 441	784	"	" 189	219	"	" 368	527	"	" 401			
1520	"	SC 1249	797	"	" 401	226	1968	SC 676	559	"	Bom 337			
1526	"	" 1280	835	"	" 73	234	1970	Bom 59	566	"	" 342			
1534	"	" 1302	855	"	" 198	245	1969	SC 4	588	"	SC 566			
1538	"	" 1335	858	"	" 213	292	"	Bom 328	592	1968	" 1390			
1547	"	" 1294	877	"	" 360	299	1968	SC 1323	597	1969	" 724			
1549	"	USSC 87	883	"	" 93	305	"	" 1267	610	1968	" 366			
			893	"	" 348	310	"	" 1413	640	1969	Bom 363			
			901	"	" 103	314	1969	Bom 282	643	1970	SC 126			
			916	"	" 127	318	1970	" 10	664	1969	Bom 397			
						328	1969	" 370	669	1920	Bom 104			
						332	1968	SC 850	677	"	" 8			
						356	1969	Bom 429	710	1970	Lab			
						367	"	SC 255			I C 115			

1967 Mah L J (Notes)

Mah LJ AIR
40 1969 Bom 66

1969 Mah L J (Notes)

Mah LJ AIR
1 1968 SC 1223
9 " Bom 277
13 1970 " 10
31 1969 SC 40
32 1968 " 991
45 1969 " 372

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1969

[Vol. 56]

CALCUTTA SECTION

WITH COMPARATIVE TABLES FOR

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(2) CALCUTTA LAW JOURNAL

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CALCUTTA HIGH COURT

1969

CHIEF JUSTICE :

The Hon'ble Mr. Justice Deep Narayan Sinha, Barrister-at-law.

PUISNE JUDGES :

The Hon'ble Mr. Justice Prasanta Bihari Mukharjee, Barrister-at-law.

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- " " Anil Kumar Sen, M.A., LL.B. (Addl.)
- " " Amiya Prasad Das (Addl.) (2-4-1969).
- " " Chittatosh Mookarjee, M.A., LL.B. (Addl.) (2-4-1969).
- " " Amiya Kumar Mookerji (Addl.) (30-5-1969).
- " " Murari Mohan Dutt (Addl.) (18-9-1969).

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NOMINAL TABLE

Akshoy Kumar v. Lal Mohan Mazamder	(April) 161	Director General Ordnance Factories Employees' Association v. Union of India	(Mar) 149
Aktiebolaget Jonkoping v. V.S.V. Palanichamy Nadar	(Jan) 43	Dutta M. M. v. Union of India	(Dec) 60
Anadi Bhusan v. Ranigati Ahir	(Sep) 420	Gadadhar Ghose v. Janaki Nath Ghosh	(Feb) 59
Anima Roy v. Probodh Mohan Roy	(June) 304	Ganesh Chandra Seal v. Pabitra Kumar Dey	(May) 232
Asiatic Shipping Co. (Private) Ltd. v. P. N. Djakarta Lloyd	(Aug) 374	Ganesh Sugar Mills Ltd. v. Commissioner of Income-Tax, West Bengal, III	(Feb) 92
Associated Electrical Industries Manufacturing Co. Private Ltd. v. Fifth Industrial Tribunal	(Nov) 542	Gopal Khaitan v. State	(Mar) 132
Bar, Das, Dey & Co. v. Sri Sri Ishwar Tarakeshwar Sib Thakur Jiu	(Dec) 565	Hari Krishna Lohia v. M/s. Hoo-lungoree Tea Co., Ltd.	(June) 312
Basanta Pandey v. Sudhir Lall Seal	(July) 360	Hari Pada v. Hem Kanta	(Sep) 421
Bejoy v. Aloka	(Oct) 477	Hiren Bose, In re	(Jan) 1 (SB)
Benu Roy v. Manindra Nath Chatterjee	(Feb) 67	Inder Singh v. Corporation of Calcutta	(Sep) 418
Bhulu Mia v. State	(Aug) 416	Ispahani Ltd. M. M. v. Commissioner of Income-tax (Central)	(Sep) 464
Birendranath Chatterjee v. State of West Bengal	(Aug) 386	Jadabendra Narayan Choudhury v. Commissioner, Jalpaiguri Divn.	(Nov) 539
Bireswar Sen v. Ashalata Ghose	(Feb) 111	Jagannath Gupta and Co. Private Ltd. v. Mulchand Gupta	(July) 363
Bon Behari Mondal v. Bhusan Chandra Barui	(June) 287	James David Crighton v. S. K. Srivastaya	(June) 260
Brooke Bond India (Private) Ltd. v. Union of India	(Jan) 39	Jatindra Nath v. State of West Bengal	(Sep) 461
Calcutta Licensed Measurers Bengal Chamber of Commerce v. Md. Hossain	(Aug) 378	Jiban Krishna Chatterjee v. State Transport Authority, W. B.	(Dec) 607
Calcutta National Bank Ltd. v. Rangaroon Tea Co. Ltd.	(Dec) 578	Kalipada Ghosh v. Sub-Divisional Officer	(April) 164
Chirajit Pal v. West Bengal Khadi and Village Industries Board	(Mar) 152	Kanailal Bhattacharjee v. Nikhil Das	(June) 267
Commissioner of Income-tax v. Calcutta Landing and Shipping Co. Ltd.	(April) 171	Kanai Pal v. State of West Bengal	(Sep) 422
Commissioner of Income-tax v. Central India Industries, Morar	(May) 236	Kartik Chandra Pal v. Noakhali Union Bank Ltd., (In Liquidation)	(Mar) 158
Commissioner of Income-tax v. S. K. Bose	(Jan) 4	Khardah Co. Ltd. v. State of West Bengal	(June) 284
Commissioner of Income-tax, W. B. I. v. National and Grindlays Bank Ltd., Calcutta	(Feb) 71	Mac. Laboratories Private Ltd. v. American Home Products Corporation	(July) 342
Commissioner of Income-tax, West Bengal-I v. Sandersons and Morgans	(May) 211	Mahabir Prasad v. Prafulla Chandra	(Apr) 198
Debendra Nath Ray v. State	(July) 340	Md. Golam Ali Mina v. Land Acquisition Collector	(May) 221
Debesh Chandra v. Union of India	(April) 180	Mohammed Pearoo v. State	(Mar) 157
Dhirendra Nath Sen v. Smt. Santasila Debi	(Aug) 406	Mamchand and Co. v. Commissioner of Income-tax, West Bengal	(Sep) 431
D. G. of Health Services v. Bikash Chatterjee	(Nov) 525	Manickchand Durgaprosad & Bros v. Balukidas Baheti	(Feb) 104

Modi Vanspati Manufacturing Company v. Katihar Jute Mills (Private) Limited	(Oct) 496	Shamsun Nehar, Mrs. v. Commissioner of Estate Duty, W. B. I.	(Mar) 139
Nadia District Bus Owners Association v. District Magistrate, Nadia	(Sep) 458	Shefali Banerjee v. State	(Nov) 544
Narayan Chandra Ghosh v. State of West Bengal	(May) 234	Shovana Bhowmick v. Birendra Kumar	(Apr) 167
Narayani Debi Sureka v. Union of India	(June) 286	Shree Nursing Timber Works v. Amala Bala	(Jan) 12
Narayan Prasad Ruia v. Mutuni Kohain	(Feb) 69	Shyamlal Purohit v. Jagannath Ray	(Sep) 424
Piriska Rozario v. Ford Foundation	(Aug) 394	Sitaram Company v. Ratilal Ram-lal	(Oct) 472
Polsan Ltd. v. Corporation of Calcutta	(May) 247	Sivapada Senapati v. State	(Jan) 28
Prem N. Mayor v. Registrar of Trade Marks	(Feb) 80	Sohanlal Ruia v. Kedarnath Purushottamdas & Co. Private Ltd.	(Nov) 516
Punam Chand Daga v. Subhakaran Dassani	(Nov) 547	Soorajmull Nagarmal v. Golden Fibre and Products	(Aug) 331
Punjab National Bank Ltd. v. Hind Textile Ltd.	(Aug) 390	Srinarayan Mukherjee v. Collector and District Magistrate of Burdwan	(Sep) 446
Purabi v. Basudeb	(Jun) 293	State v. D. Rudra	(Dec) 602
Rabindra Nath Dutta v. State	(Feb) 55	State of Jammu and Kashmir v. Lucky Glass Works	(Jan) 11
Rahini Roy v. M/s. Jethmull Bhojraj	(May) 218	State of West Bengal v. A. C. Mohammed	(Nov) 531
Raj Kishore Rabidas v. State	(July) 321	— v. Biswanath Banerjee	(Apr) 175
Rama Kanta Banik v. District School Board of Malda	(Aug) 397	— v. Jagadamba Prasad Singh	(June) 281
Ramendra Singh v. Mohit Choudhary	(Nov) 535	Sunil Kumar v. Ajit Kumar	(Oct) 492
Ram Gopal v. State of West Bengal	(June) 316	Sunil Kumar Chowdhary v. Sati-rani Chowdhary	(Dec) 573
Ramji Dayawahla & Sons v. Messrs. Invest Import	(May) 253	Sunil Kumar Mukhopadhaya v. Provash Chandra Mujumdar	(Feb) 88
Ram Krishna v. Union of India	(Jan) 18	Superintendent and Remembrancer of Legal Affairs, West Bengal v. D. Surya Rao	(Dec) 594
Ram Narayan Pramanick v. Union of India	(Dec) 576	Superintendent and Remembrancer of Legal Affairs v. Sardar Bahadur Singh	(Sep) 451
Ram Raj Singh v. State of West Bengal	(Oct) 481	Surajmull Ghanshyamdas v. Samadarshan Sur	(Feb) 109
Ranjit Kumar Chatterjee v. Union of India	(Feb) 95	Textile Machinery Corporation Ltd. v. Nalinbhai B. Munshaw	(Mar) 146
Rank Film Distributors of India Ltd. v. Registrar of Companies, West Bengal	(Jan) 32	Turner Morrison & Co., Ltd. v. Hyngerford Investment Trust Ltd.	(May) 238
Ruttonjee and Co. Ltd., In the matter of	(Nov) 550	Ujjal Talukdar v. Netai Chand Koley	(May) 224
Sarbananda v. State Service, Department of Food and Supply	(Oct) 474	Zilla Parishad, 24 Paraganas v. Mercantile Engineering Co.	(Dec) 564
Sardar Ajaib Singh, Calcutta v. Commissioner of Wealth Tax, W. B.	(May) 249		

All India Services Act (61 of 1951)

See under Civil Services

All India Services (Discipline and Appeal) Rules (1955)

See under Civil Services.

Arbitration Act (10 of 1940), S. 2—Appointment of arbitrator to fix quantum of compensation for property actually requisitioned—Claim for compensation for other portions affected by requisition would be beyond scope of reference—See Houses and Rents—West Bengal Premises Requisition and Control (Temporary Provisions) Act (5 of 1947), S. 11 (1) (b) (Nov) 531A

—**Ss. 2 (e), 2 (a)**—Agreement in writing for reference to arbitration—Requirements—Terms, agreed upon, must be in writing and for that purpose signatures of parties are not necessary—A's will making provision in writing for reference to arbitration in cases of disputes between B and C—B making written application for probate and acting upon it—C agreeing to grant of probate—Held, it was case of agreement in writing for reference to arbitration (Apr) 167B

—**S. 9 (a)**—Scope—Essential conditions for the application of S. 9 explained

(Mar) 146A

—**Ss. 9 (a), 28**—Question in issue, whether S. 9 (a) covers the arbitration agreement and not the validity of the agreement—Previous order of Court extending time for making award—Order cannot operate as *res judicata* on the issue (Mar) 146B

—**S. 14 (2)**—Service of notice under, not done—Order or decree passed can be recalled under inherent powers of Court—See Civil P. C. (1908), S. 151 (Aug) 381A

—**S. 14 (2)**—Limitation under Art. 119 (b), Limitation Act (1963) runs from date of service of notice under O. 14, R. 2—See Arbitration Act (1940), S. 17 (Aug) 381B

—**S. 17**—Decree under, not *ex parte* even if pronounced in absence of parties—Cannot be set aside under O. 9, R. 13, Civil P. C.—See Civil P. C. (1908), S. 151 (Aug) 381A

—**Ss. 17, 30, 14 (2)**—Setting aside of decree under S. 17 on grounds appearing sufficient—Limitation Act (1963), S. 5, Art. 119 (b)—Applicability—Applicant has to show sufficient cause for not filing application on last day of limitation (Aug) 381B

—**S. 28**—Previous order of Court extending time for making award—Order cannot operate as *res judicata* on the issue whether S. 9 (a) applies or not—See Arbitration Act (1940), S. 9 (a) (Mar) 146B

—**S. 30**—Inherent powers of Court to set aside orders or decrees—See Civil P. C. (1908), S. 151 (Aug) 381A

Arbitration Act (contd.)

—**S. 30**—Setting aside decree under S. 17—Application delayed—Application must show reason for delay—See Arbitration Act (1940), S. 17 (Aug) 381B

—**S. 34**—Discretion to grant stay—Suit against principal-debtor and guarantor—Existence of arbitration agreement between plaintiff (creditor) and principal debtor only—Guarantor not party to it—Suit cannot be stayed (Aug) 374A

—**S. 34**—Proceedings under—Court has no power to go into merits of case (Aug) 374B

—**Ss. 34, 39 (1) (v)**—Expression “still remains ready and willing” in S. 34—Interpretation of—Refusal to grant stay—Applicant filing appeal and also requesting liberty to file written statement in lower Court—He ceases to remain ready and willing—Appeal not maintainable (Aug) 374C

—**S. 39**—New plea—Cannot be raised for the first time in appeal (Aug) 374D

—**S. 39 (1) (v)**—When party does not continue to remain “ready and willing”, there is no right of appeal—See Arbitration Act (1940), S. 34 (Aug) 374C

—**Sch. I, Para 3 read with S. 3**—Point of limitation—Where no effective step could be taken by arbitrators in matter of arbitration before final or effective notice was issued, limitation for the making of award cannot start prior to the date of effective notice. (1941) 1 K B 396 & AIR 1951 Cal 78, Dissented (Apr) 167A

Arms Act (54 of 1959), Ss. 22 (1) and 17 (3)—

On facts, held, order of seizure of firearms and suspension of licence was justified—Question of ownership is relevant—Adequacy and correctness of reasons prompting action under the provisions could not be gone into in writ jurisdiction (Nov) 539

—**S. 17 (3)**—On facts, held order of seizure of firearms and suspension of licence was justified—See Arms Act (1959), S. 22 (1) (Nov) 539

Banking Companies Act (10 of 1949), S. 45B

—Scope—Bank in liquidation—Decree in favour of bank transferred by High Court to another Court for execution—Claim under O. 21, R. 58, Civil P. C. made to executing Court—Notwithstanding S. 45B, executing Court has jurisdiction to decide it—Leave under S. 171, Companies Act (1913) not necessary to prefer such claim. AIR 1962 Cal 86, Overruled (Mar) 158

Bengal Local Self-Government Act (3 of 1885), S. 146—

Notice under—When not necessary—Expression “any act done by a person under the authority of the Act”—District Engineer sending his road-roller for repair,

- Bengal Local Self-Government Act (contd.)**
 is not something which is done or contemplated under the Act—He sends it for repairs in ordinary course of his duty and not because the authority under the Act directs him to do so—Notice under S. 146 is, therefore, not necessary before filing a suit for recovery of price for such work — If S. 146 does not apply third part of that section also does not apply (Dec) 564A
- Bengal Motor Vehicles Rules (1940), R. 101—**
 Shifting of existing Bus stand — Petitioner submitting to jurisdiction of District Magistrate — No writ under Art. 221, Constitution of India, lies to change order—*See* Constitution of India, Art. 226 (Sep) 458A
- R. 101* — Interpretation of — District Magistrate is competent to pass order for shifting of Bus stand from existing site to another place—Language used in sub-cl. (i) and (ii) is wide enough to cover both cases of closing existing site and fixing another site as Bus stand or halting place—Whether or not the place would be convenient to general travelling public or Bus owners is a matter exclusively within jurisdiction of District Magistrate — Decision of District Magistrate on such question of fact cannot be gone into or decided by High Court in petition under Art. 226 of Constitution (Sep) 458B
- Bengal Primary Education Act (4 of 1919)**
See under Education.
- Bengal Public Demands Recovery Act (3 of 1913), S. 16—**Payment of interest, costs and charges — Liability to pay attaches even where execution proceedings have not started (June) 284
- Bengal Subordinate Service (Discipline and Appeal) Rules**
See under Civil Services.
- Calcutta High Court Criminal Rules and Orders**
See under High Court Rules and Orders.
- Calcutta Thika Tenancy Act (2 of 1949)**
See under Tenancy Laws.
- Central Services (Recognition of Service Association) Rules, 1959**
See under Civil Services.
- Civil Procedure Code (5 of 1908).** *Pre.*—Interpretation of Statutes — Fiscal statutes — Principles of Construction — *See* Income-tax Act (1922), S. 42 (1) (Feb) 71
- Pre.* — Interpretation of Statutes — Liberal construction — *See* Partition Act (1893), S. 4 (Feb) 88A
- Pre.*—Interpretation of statutes—Statute giving power to do certain thing in a certain way — Thing must be done in that way only (Mar) 152B
- Pre.*—Judicial precedents—Even obiter of Supreme Court is binding on High Courts — *See* Constitution of India, Art. 141 (May) 249B
- Pre.*—Interpretation of Statutes — Relevancy of statement of objects and reasons — Representation of the People Act (1951) (after amendment in 1956), S. 100 (1) (d) (iv) (June) 267B
- Pre.*—Maxim “*actio personalis moritur cum persona*” — Applicability in India — *See* Indian Succession Act (1925), S. 306 (Aug) 394A
- Pre.* — Interpretation of Statutes—Penal statute — Benefit of ambiguity (Oct) 474B
- Pre.*—Precedents — Judicial precedents — Full Bench decision is always binding on a Division Bench unless and until the Full Bench decision is overruled by the Supreme Court (Nov) 547B
- Pre.*—Interpretation of Statutes — Word ‘charge’ in R. 94A (1) of Defence of India Rules, 1939—Interpretation—*See* Defence of India Rules (1939), R. 94A (1) (Dec) 578A
- Pre.*—Interpretation of Statutes—Instrument creating charge — Interpretation of — *See* Defence of India Rules (1939), R. 94A (Dec) 578B
- Pre.*—Interpretation of Statutes — Rule of liberal interpretation—Cannot be introduced for interpreting provisions of Railway Property (Unlawful Possession) Act of 1966 — *See* Railway Property (Unlawful Possession) Act (29 of 1966), S. 3 (Dec) 594A
- Pre.*—Precedents — Obiter dicta of Supreme tribunal are entitled to considerable weight (Dec) 594B
- S. 2 (7) (b)* — Applicability of S. 80 to Jammu and Kashmir—Jammu and Kashmir is now a State — Notice under S. 80 necessary before a suit against it can be maintained in a place where Code applies — *See* Civil P. C. (1908), S. 80 (c) (Jan) 11
- S. 9*—Domestic Tribunal — Jurisdiction of Civil Court to interfere with decisions of domestic tribunal — Conditions necessary—Domestic Tribunal not bound by rules of evidence (May) 224B
- S. 11*—Assessment of unregistered firm — Dissolution—Appeal—Decision, in appeal filed by one partner will not be binding as *res judicata* on others — *See* Income-tax Act (1922), S. 30 (Jan) 4D
- S. 20* — Cause of action — Every fact necessary to be proved is cause of action (May) 224A
- S. 20* — Two different causes of action surviving deceased plaintiff — Legal repre-

Civil P. C. (contd.)

representatives can claim to come on record —
See Motor Vehicles Act (1939), S. 110A (a),
 (b), (c) (Aug) 394B

—S. 20—Plaintiff pursuing two different
 causes of action in suit — Death of plaintiff
 — Heirs wanting to pursue suit — Which
 cause they can follow — *See* Motor Vehicles
 Act (1939), S. 11A (Aug) 394C

—S. 34 — Interest — Tender of, should be
 unconditional and for entire amount and
 made bona fide—Effect of valid tender — *See*
 Civil P. C. (1908), O. 24, R. 3 (Aug) 406C

—S. 47—Claim under O. 21, R. 58 made to
 executing Court in execution of decree in
 favour of Bank transferred by High Court
 to another Court for execution — Executing
 Court has jurisdiction to decide it, notwith-
 standing S. 45B of Banking Companies Act
 — *See* Banking Companies Act (1949), S. 45B
 (Mar) 158

—S. 47 — Charge created under award
 realisable in execution — Separate suit not
 necessary—*See* Civil P. C. (1908), O. 34, R. 14
 (Aug) 406A

—S. 51—Appointment of receiver — Any
 impediment to legal execution is not neces-
 sary to be shown before appointing receiver
 in execution of decree (Aug) 406B

—Ss. 50 (c) and 2 (7B) — Applicability of
 the section—Jammu and Kashmir is now a
 State — Notice under S. 80 is necessary be-
 fore a suit can be maintained against it at a
 place where the Code applies (Jan) 11

—S. 96, O. 9, R. 13 and O. 17, Rr. 2 and 3—
 Adjournment of suit at instance of Court —
 During progress of suit one of the defen-
 dants going to fetch a material witness held
 up due to civil disturbances and Police fir-
 ing—Adjournment on ground of absence of
 defendant and the witness refused — Conse-
 quent prayer by counsel for leave to retire
 from suit refused — Disposal of suit by pas-
 sing a decree in favour of plaintiff — Suit
 must be deemed to have been decreed ex
 parte under O. 17, R. 2 — Application to set
 aside the decree under O. 9, R. 13 held main-
 tainable — There being sufficient cause for
 non-appearance, the ex parte decree must be
 set aside — Mere physical presence of the
 lawyer did not constitute appearance — To
 hold that O. 9, R. 13 did not apply because
 there was right of appeal would cause grave
 injustice to party. AIR 1961 Assam 99 and
 AIR 1961 Assam 144, Diss. from (Nov) 516

—S. 115—Ejectment of tenant ordered —
 Revision — Setting aside such order — Dis-
 cretion (Feb) 109C

—S. 151, O. 9, R. 13—Arbitration Act (1940),
 Ss. 17, 14 (2); 30 — Inherent power of Court
 to recall order or decree passed under S. 47

Civil P. C. (contd.)

—O. 9, R. 13 does not apply to proceeding
 for setting aside such decree—Decree under
 S. 17 is not ex parte even pronounced in ab-
 sence of parties (Aug) 331A

—S. 151—Delay in application to set aside
 decree under S. 17, Arbitration Act (1940) —

Delay sufficiently explained — Decree can
 be set aside under inherent powers — *See*
 Arbitration Act (1940), S. 17 (Aug) 331B

—O. 1, R. 10 — Joint award — Reference
 under S. 18, Land Acquisition Act (1894),
 omitting name of one awardee — Inclusion
 of his name — His addition is valid — *See*
 Land Acquisition Act (1894), S. 18 (Sep) 420

—O. 1, R. 10 (2) — Addition of parties —
 Principles of — Suit for recovery of money
 between two subsidiary companies — Hold-
 ing company cannot intervene or choose to
 join either of subsidiaries (May) 238A

—O. 1, R. 13 and O. 8, R. 2 — Plea of non-
 joinder of necessary parties — Plea taken
 vaguely at earlier stage — Plea allowed
 to be raised in Art. 227 proceeding —
 Plea, however, failed on merits — (Consti-
 tution of India, Art. 227 — Court not an ap-
 pellate Court—No interference called for) —
 (Hindu Law — Succession—Thika tenancy
 held by late karta in absolute severalty —
 Tenancy devolves by succession and not by
 survivorship) — (Tenancy Laws—Calcutta
 Thika Tenancy Act (2 of 1949), S. 3 — Thika
 tenancy held by late Karta of joint family
 in absolute severalty—Tenancy devolves by
 succession — Only heirs to be impleaded)

(July) 360
 —O. 6, R. 14 — Suit against limited com-
 pany in its "name" — Constituted attorney
 signing written statement — Signing not in-
 dicative of appearance of Company in suit—
See Civil P. C. (1908), O. 30, R. 10

(Oct) 496E
 —O. 6, R. 15 — Limited Company being
 sued in its "name"—Pleading verified by its
 attorney—Verification not indicative of ap-
 pearance of Company in suit—*See* Civil P. C.
 (1908), O. 30, R. 10 (Oct) 496E

—O. 8, R. 2—Plea of non-joinder of neces-
 sary parties raised vaguely at early stage —
 Plea allowed to be raised in Art. 227 pro-
 ceedings—*See* Civil P. C. (1908), O. 1, R. 13

(July) 360
 —O. 9, R. 13—Proceedings to set aside de-
 cree under S. 17, Arbitration Act (1940) —
 O. 9, R. 13 does not apply — *See* Civil P. C.
 (1908), S. 151 (Aug) 331A

—O. 9, R. 13—Basis of application under
 O. 9, R. 13 was mistake of lawyer — Relief
 asked was from consequences of mistake —
 S. 17 (1) (c), Limitation Act applies and
 Art. 123 governs case — *See* Limitation Act
 (1908), S. 5 (Sep) 418

Civil P. C. (contd.)
 —O. 9, R. 13 — Non-appearance of defendant and material witness on sufficient cause — Ex parte decree under O. 17, R. 2 — Application under O. 9, R. 13, held, maintainable — See Civil P. C. (1908), S. 96 (Nov) 516
 —O. 14, Rr. 2, 6 — Question of law — Determination — Such questions cannot be or at least ought not to be decided by concession of counsel. (Per S. N. Mukherjea, J.) (Oct) 496F
 —O. 17, R. 6 — Question of law — Ought not to be decided by concession of counsel — See Civil P. C. (1908), O. 14, R. 2 (Oct) 496F
 —O. 17, R. 2 — Hearing of suit adjourned by Court — On next date adjournment on ground of absence of defendant and his witnesses refused — Disposal of suit by passing decree in favour of plaintiff — Disposal is under O. 17, R. 2 and not under O. 17, R. 3 — See Civil P. C. (1908), S. 96 (Nov) 516
 —O. 17, R. 3 — Hearing of suit adjourned by Court — On next date adjournment on ground of absence of defendant and his witnesses refused — Disposal of suit by passing decree in favour of plaintiff — Disposal is under O. 17, R. 2 and not under O. 17, R. 3 — See Civil P. C. (1908), S. 96 (Nov) 516
 —O. 21, R. 58 — Decree in favour of Bank transferred by High Court to another Court for execution — Claim under O. 21, R. 58 made to executing Court — Executing Court has jurisdiction to decide it — See Banking Companies Act (1949), S. 45-B (March) 158
 —O. 21, R. 90 — "Whose interests are affected by the sale" — Meaning of — Whether share-holder in process of compulsory winding up of company has *locus standi* to apply for setting aside sale of property belonging to company (Sep) 424
 —O. 22 — Claim for injuries not resulting in death, another claim for injuries resulting in death — Cause of action surviving to heirs — which he can pursue — See Motor Vehicles Act (1939), S. 110-A (a), (b) and (c) (Aug) 394B
 —O. 22 — Death of plaintiff in suit for compensation under S. 110-A, Motor Vehicles Act (1939) — Survival of cause of action — Which cause can heirs follow up — See Motor Vehicles Act (1939), S. 11-A (Aug) 394C
 —O. 22, R. 3 — Hindu Succession Act 1956, S. 6, Proviso and Explanation I — Proceedings instituted by Karta of joint Hindu Mitakshara family — Death of minor coparcener during pendency of lis, and after commencement of Act — Failure to substitute his only heir (mother) — Lis abates as a whole (Feb) 69

Civil P. C. (contd.)
 —O. 24, R. 3 and S. 34 — Interest on money due — Tender must be unconditional and for entire amount due — It should also be *bona fide* — Valid tender stops running of future interest — Refusal to accept money tendered when absolves tenderer — Principles explained (Aug) 406C
 —O. 29 — Company being legal entity can sue or be sued only under O. 29 — Allowing company being sued in its name will be inroad on Civil P. C. — See Civil P. C. (1908), O. 30, R. 10 (Oct) 496E
 —O. 30, R. 10, O. 29 and O. 6, Rr. 14 and 15 — Applicability — 'Person' in O. 30, R. 10 — Meaning — Limited company sued in its business name — Suit not maintainable — Written statement signed and verified by constituted attorney of company — Such signing and verification not indicative of appearance of company in suit (Oct) 496E
 —O. 34, Rr. 14 and 15 and S. 47 — Charge created by judgment on award — Held, charge was realisable in execution and independent suit was not necessary — Charge created under award could not be said to have created either by "act of parties" or by "operation of law" and therefore, O. 34, R. 14 did not apply : A I R 1932 All 439, Dissented from (Aug) 406A
 —O. 34, R. 15 — Charge created under award — O. 34, R. 15 not applicable : AIR 1932 All 439, Dissented — See Civil P. C. (1908), O. 34, R. 14 (Aug) 406A
 —O. 37, Rr. 2 and 4 — Negotiable instruments — Summary procedure — Setting aside of decree passed under R. 2 — Maintainability of application (May) 218A
 —O. 37, R. 4 — Maintainability of application under — Nature of jurisdiction under O. 37 indicated — See Civil P. C. (1908), O. 37, R. 2 (May) 218A
 —O. 37, R. 4 — Negotiable instruments — Summary procedure — Application to set aside decree passed under R. 2 of O. 37 — Held, on facts that there were no special circumstances for the Court to use its judicial discretion for setting aside the decree (May) 218B
 —O. 41, R. 25 — Non-consideration of a question by lower Court — Remand — See Partition Act (1893), S. 4 (Feb) 88B
 —O. 45, R. 4 — Applications for leave to appeal under Art. 133 (1) and (b) and Art. 133 (1) and (c) — Consolidation of (Nov) 547D

CIVIL SERVICES

—All India Services Act (61 of 1951), S. 3 — Home Ministry's Resolution D/- 17-10-1957 has no statutory force — Claim to hold post:

Civil Services—All India Services Act (contd.)

of a secretary to Central Government under it held could not be enforced by Court—*See* Constitution of India, Art. 226 (April) 180E

—*S. 3 (1)* — Rules under—Indian Administrative Service (Cadre) Rules (1954), R. 6 — Member of I. A. S. serving in Assam State deputed to serve Central Government — Cadre Officer within R. 6 — On facts held petitioner did not hold a permanent post in Central Government nor was he appointed substantively as such (April) 180A

—**All India Services (Discipline and Appeal) Rules (1955), R. 3 (4)**—Reversion of Government servant officiating in higher post—Not a reduction in rank — *See* Constitution of India, Art. 311 (April) 180H

—**Bengal Subordinate Service (Discipline and Appeal) Rules, R. 10**—Service under contract — Removal — Art. 311 (2) whether attracted — *See* Constitution of India, Art. 226 (April) 164B

—**Central Services (Recognition of Service Association) Rules (1959)** — Recognised Association of Government employees — Association gets only status in dealing with Government — It cannot apply under Art. 226 of the Constitution on behalf of its members — *See* Constitution of India, Art. 226 (March) 149A

—**Fundamental Rules, R. 56 (f)**—Member of Indian Civil Service on deputation to Central Government holding post of Secretary for less than five years from date of appointment as Secretary—R. 56 (f) can have no application to his case if he has not reached the end of thirty-five years' service counted from his date of arrival in India — Hence no question of his holding the post for a period of five years arises (April) 180C

—*R. 113* — Reversion from officiating to substantive post — On facts, held, there was no violation of R. 113 — *See* Constitution of India, Art. 311 (Nov) 525B

—**Indian Administrative Service (Cadre) Rules (1954), R. 6** — Member of I. A. S. serving in Assam State deputed to Central Government — Is Cadre officer within R. 6 — *See* Civil Services — All India Services Act (1951), S. 3 (1) (April) 180A

—**Railway Establishment Code, Rr. 1707, 1708, 1712 and 1716** — Charge-sheet, mentioning major penalty of removal, issued — Punishing authority is not barred from inflicting minor penalty of recovery of pay for pecuniary loss caused by negligence after complying with procedure for minor penalties—Rule, that after initiating action for special remedy, the alternative general

Civil Services—Railway Establishment Code (contd.)

remedy cannot be availed of, on failure to comply with the special procedure, does not apply, as both the major and minor penalties are provided for by the same Code — Where a minor penalty only has been imposed the authority cannot be asked to justify the order with reference to the requirements of the procedure laid down for major penalties (Dec) 604A

—*Rr. 1708 and 1716*—Not the intention or object of the Railway authorities at the commencement of the proceedings, but the nature of the penalty which is eventually imposed, determines procedure which must be followed in order to render the order valid (Dec) 604B

—*R. 1712* — Major penalty — Procedure under R. 1712 applies — *See* Railway Establishment Code, R. 1707 (Dec) 604A

—*R. 1716* — Minor penalty — Procedure under R. 1716 applies—*See* Railway Establishment Code, R. 1707 (Dec) 604A

—*R. 1716*—Nature of penalty which is eventually imposed determines procedure to be followed — *See* Railway Establishment Code, R. 1708 (Dec) 604B

Citizenship Act (57 of 1955), S. 9 (2)—Determination of citizenship—Complicated issues like citizenship cannot be gone into in writ proceedings — *See* Constitution of India, Art. 226 (Aug) 386B

—*S. 9 (2)* — Person entering India on Pakistani passport — It is no proof of his acquiring foreign citizenship—Procedure to determine citizenship explained (Aug) 386C

—*S. 9 (2)*—Voter's name appearing in Electoral roll—Allegations that he was a Pakistani national — Voter does not forfeit his rights till his citizenship is finally decided under S. 9 (2)—AIR 1964 Cal 340, Held overruled by F. M. A. No. 3/1963 (Cal) (Aug) 386D

Companies Act (7 of 1913), S. 109—Non-registration of mortgage under—Effect of—Mortgage will be void against liquidator and creditors even if mortgage is valid mortgage (Dec) 578F

—*S. 171*—Decree in favour of Bank transferred by High Court to another Court for execution — Claim under O. 21, R. 58, Civil P. C. 1908 made to executing Court—Executing Court has power to decide it — Leave under S. 171, Companies Act (1913) not necessary to prefer such claim — *See* Banking Companies Act (1949), S. 45B (Mar) 158

Companies Act (1 of 1956), S. 1—Scope and object—Act must prevent snowballing of finance or must not affect economy of a Welfare State—Protection of share-holder is also one of the objects—"Organic Theory". meaning of — Provision in Act relating to directors must be strictly enforced: (Mar) 132B

—**Ss. 4 and 34**—Holding company and its subsidiaries — Status of—Each is separate legal entity subject to provisions of Company Law (May) 238B

—**S. 17**—Injunction restraining company from holding Extraordinary General meeting called for seeking bare power of amalgamation — Relief cannot be granted — See Companies Act (1956), Ss. 391, 396

(June) 312A

—**S. 17 (3) and (4)**—Alteration in memorandum — Change of place of registered office from one State to another—Confirmation by Court—Loss of revenue to State — Whether relevant consideration. AIR 1957 Orissa 232 and AIR 1961 Orissa 62 and A. H. O. No. 1 of 1957 (Orissa), Dissented from (Jan) 32

—**S. 34**—Court cannot "pierce the veil" in case of a non-statutory company like Hindustan Steel Ltd., registered under Companies Act—See Constitution of India, Art. 311 (2) (Feb) 95A

—**S. 38**—Court cannot "pierce the veil" in case of a non-statutory company like Hindustan Steel Ltd., registered under Companies Act — See Constitution of India, Art. 311 (2) (Feb) 95A

—**Ss. 162, 168, 210, 220 (3), 614A (2)** — Offence under Act—Mens rea, whether essential—Offence under S. 614A (2) requires no mens rea (Mar) 132A

—**S. 168**—Offence under the Act—Mens rea, whether essential — See Companies Act (1956), S. 162 (Mar) 132A

—**S. 173 (2)**—Notice calling General Meeting to propose bare power to amalgamate — Names of amalgamating companies given in explanatory statement attached to notice—Amalgamation whether financially advisable, not stated—Notice is not inadequate (June) 312B

—**S. 186** — Court, whether can exercise power under S. 186 and dispense with special notice under S. 284 — See Companies Act (1956), S. 284 (Nov) 550A

—**S. 186**—Powers under — Exercise of — Allegation that certain directors have ceased to be directors under S. 295 — Court must test basis of that allegation before it decides upon calling meeting under S. 186—That the controversy is subject-matter of suit, does not preclude Court from ascertaining whether there is prima facie case

(Nov) 550B

Companies Act (1956) (contd.)

—**S. 186**—Powers of Court—When can be exercised — Main principles involved in trying application under S. 186 summarised (Nov) 550C

—**S. 210** — Offence under — Mens rea, whether necessary — See Companies Act (1956), S. 162 (Mar) 132A

—**S. 220 (3)**—Offence under — Mens rea, whether necessary — See Companies Act (1956), S. 162 (Mar) 132A

—**Ss. 235, 433**—Where remedy of investigation has been chosen, winding up should not be allowed to be pursued (July) 363D

—**Ss. 255, 425 (2) read with Ss. 484 to 497 and S. 515** — Removal and replacement of Liquidators and Directors—Mode of

(May) 238D

—**Ss. 284 and 186**—Scope—Essential requirements for removal of director under S. 284—Court cannot exercise power under S. 186 and dispense with special notice under S. 284 in absence of concrete, precise and specific charges against directors

(Nov) 550A

—**S. 368**—Management of Company delegated to Managing Agents under Articles of Company—Board empowered to call meeting and sign notice therefor — Managing Agent work subject to superintendence, control and directions of Board—Board issuing notice of meeting without violating provisions of statute and Managing Agents also not complaining—Notice is valid

(June) 312C

—**Ss. 391, 396, 494 and 17** — Notice of extraordinary General meeting seeking bare power of amalgamation — Application to alter Memorandum for purpose of amalgamation also made—Share-holder not entitled to relief of injunction restraining Company from holding meeting (June) 312A

—**S. 425 (2) read with Ss. 484 to 497 and S. 515**—Removal and replacement of Liquidators and Directors—Mode of — See Companies Act (1956), S. 255 (May) 238D

—**S. 433**—Winding up on just and equitable grounds—Held, on facts, that respondent's application for winding up was not motivated by desire to do justice to company or to see that justice was done to shareholders but by private reasons, that is, to injure directors for acts of omission and commission in which respondent himself participated or acquiesced—That, in the circumstances respondent should not be permitted to proceed with the hearing of the application and stay of winding up must be granted : Order of Datta, J., D/- 23-4-1968 (Cal), Reversed (July) 363B

—**S. 433**—Order for winding up must be confined to grounds set out in petition—

Constitution of India (contd.)

contract—Remedy is under law of contract and not under Art. 226 (Jan) 18E

—*Art. 226*—Contract of service cannot be enforced — Remedy is under general law — See Constitution of India, Art. 311 (2) (Feb) 95B

—*Arts. 226, 309* — Who can file Writ Petition—Civil Service — Central Services (Recognition of Service Association) Rules, 1959 — Association gets only status in dealing with Government — It cannot apply under Art. 226, on behalf of its members — When such association can take legal proceedings collectively as such, explained—Exceptions to general rule indicated (Mar) 149A

—*Art. 226* — Writ can be issued only on infringement of legal rights and not administrative practice — Claim based on statements made in Government of India Manual and the observations of Pay Commission — Manual has no statutory force and Pay Commission's observations have no legal force being matters for administrative authorities—No writ can be issued (Mar) 149B

—*Art. 226*—Other remedy—Breach of service agreement with Government remediable under general law—No writ will lie (Apr) 164A

—*Arts. 226, 311* — Civil Services—Bengal Subordinate Service (Discipline and Appeal) Rules, R. 10—Service under contract — One clause providing for removal from service, for negligence, inefficiency or unsatisfactory work, without notice — Removal from service on charges of misappropriation and tampering of record — Contractual clause does not cover the case and Art. 311 (2) comes into operation (Apr) 164B

—*Arts. 226 and 311 (2)*—Delay—Dismissal of Civil servant—Charges serious, legal position difficult, legal advice necessary—Delay in filing writ petition was excusable—Civil Services (Apr) 164C

—*Arts. 226, 311*—Scope—No legal right in existence when writ is applied for—Writ of mandamus cannot be issued — Expiry of period for licence before obtaining rule or before pronouncement of judgment—Writ of mandamus must be refused—Temporary service based on contract — Service terminated against principles of natural justice—Application for writ of certiorari — Contract expiring afterwards — Writ can still be issued — Civil Services (Apr) 164D

—*Art. 226* — Executive power of Union vested in President — Power exercised through other officers must comply with provisions of Art. 77 (2) and (3)—See Constitution of India, Art. 53 (Apr) 180D

Constitution of India (contd.)

—*Arts. 226, 77 and 309, Proviso* — Home Ministry's Resolution dated 17th October 1957, has no statutory force—It is not a rule either under S. 3 of All India Services Act or under Art. 77 or Proviso to Art. 309 — Claim to hold the post of a Secretary to Central Government under the above resolution held could not be enforced by Court (Apr) 180E

—*Art. 226*—Discretion of Governor to appoint Chief Minister—Cannot be questioned in writ proceedings — See Constitution of India, Art. 164 (1) (Apr) 198A

—*Art. 226* — Governor's powers to withdraw pleasure during which Ministers hold office—Exercise of power not questionable in writ—See Constitution of India, Art. 164 (1) and (2) (Apr) 198B

—*Art. 226*—Rule nisi—Issuance of — Test (Apr) 198C

—*Art. 216* — Quo warranto — It is not enough for a person holding a public office, whose appointment is challenged in a quo warranto proceeding, merely to produce the warrant or the notification of the appointment — He must go further and satisfy the Court that the appointment is legal and valid (Apr) 198D

—*Art. 226*—Natural justice — Opportunity to produce relevant evidence — See Defence of India Act (1962), S. 30, Proviso (June) 286

—*Art. 226* — Negation of fair trial — Absence of defence lawyer—See Criminal P. C. (1898), S. 340 (July) 321C

—*Art. 226* — Panchayats — West Bengal Panchayat Act (1 of 1957), S. 27 — Election of office bearers of Anchal Panchayat challenged in application for writ — Proper remedy is under R. 30 of W. B. Panchayat Rules (1958) — Writs when and against whom can be issued, explained (Aug) 386A

—*Art. 226* — Scope — Controversial questions of fact — Whether a person is a Pakistani subject and unable to stand for election or to vote or, if he has become an Indian subject are complicated and controversial issues of facts—Such disputed questions of facts cannot be gone into during exercise of discretionary power under Art. 226 (Aug) 386B

—*Art. 226*—Existence of alternative statutory remedy does not constitute a bar to jurisdiction of High Court (Aug) 397E

—*Art. 226*—Notice to show cause against proposed action — Opportunity to be real and reasonable — See Constitution of India, Art. 311 (2) (Aug) 397C

—*Art. 226*—No rules of enquiry or for dismissal laid down in Bengal Primary Education Act (4 of 1919) and rules thereunder — Rules of natural justice should be followed

Constitution of India (contd.)

—See Civil Services — Bengal Primary Education Act (4 of 1919), S. 66 (2) (P).

(Aug) 397D

—Art. 226 — Motor Vehicles Act (1939), Ss. 75, 76 — Bengal Motor Vehicles Rules (1940), R. 101—Shifting of Bus stand from existing site — Petitioner surrendering to jurisdiction of District Magistrate—In spite of several adjournments on his request petitioner failing to avail himself of opportunities to press the point on question of propriety of shifting Bus stand—Petitioner cannot be allowed to raise question of jurisdiction of D. M. by invoking Art. 226

(Sep) 458A

—Art. 226 — Absence of jurisdiction—Where statute is vague and on reasonable interpretation its breach would constitute no offence, that becomes ground of absence of jurisdiction for issue of prohibition or certiorari against inferior Courts

(Oct) 474C

—Art. 226—Natural justice—Both sides to a case should be given opportunity of being heard—See Criminal P. C. (5 of 1898), S. 340

(Oct) 492A

—Art. 226 — Council of Scientific and Industrial Research — Neither a public body nor part of Government — No writ can be issued against the same—See Constitution of India, Art. 309

(Nov) 525A

—Art. 226—New ground not allowed to be raised in writ appeal

(Nov) 525C

—Art. 226 — Violation of Fundamental Rules framed under Art. 309, is justiciable—See Constitution of India, Art. 309

(Nov) 525D

—Art. 226 — Adequacy and correctness of reasons prompting action under the provisions of Ss. 17 (3) and 22 (1), Arms Act (1959) could not be gone into in writ jurisdiction — See Arms Act (1878), S. 22 (1)

(Nov) 539

—Art. 226—Parties—Petition challenging order of Government revising list of candidates for promotion — Petition without impleading other employees who would be affected if the list is disturbed is not maintainable

(Dec) 576B

—Art. 227—Land Acquisition Act (1894), S. 18—Collector acting under S. 18 of L. A. Act satisfies test of Tribunal for purposes of Art. 227 of Constitution

(May) 221A

—Art. 227 — New plea—Plea of and non-joinder of necessary party taken vaguely in trial Court, allowed to be taken in Art. 227 proceedings — See Civil P. C. (1908), O. 1, R. 13

(July) 360

—Art. 227 — Court not an appellate Court —No interference called for—See Civil P. C. (1908), O. 1, R. 13

(July) 360

Constitution of India (contd.)

—Art. 298 (as amended by Constitution 7th Amendment Act, 1956) — Commercial function of Government is not converted into Governmental function — See Constitution of India, Art. 311 (2)

(Feb) 95A

—Art. 301 — Petitioner failing to carry out his obligation under licence issued under Imports (Control) Order (1955) — Government suspending only non-statutory business dealings with petitioner — Held, Art. 301 was not applicable — See Constitution of India, Art. 14

(Jan) 18A

—Art. 301 — Violation of terms of licence by a licensee under Imports (Control) Order (1955)—Government cannot take any measure apart from provisions of statute — Any action taken to deny licensee any rights or privileges in respect of other business is *ultra vires* — See Constitution of India, Art. 19 (1) (g)

(Jan) 18C

—Art. 301—West Bengal Rice and Paddy Control Order (1966), Para. 5 (c), Proviso, restricting trade is unconstitutional for vagueness — See Constitution of India, Art. 19 (1) (f)

(Oct) 474D

—Art. 301 — West Bengal Rice and Paddy Control Order (1966), Para. 5 (c), Proviso, restricting trade is unconstitutional for vagueness — See Constitution of India, Art. 19 (1) (f)

(Oct) 474D

—Art. 309 — Who can file writ petition—Recognised Association cannot apply under Art. 226 on behalf of its members — See Constitution of India, Art. 226 (March) 149A

(April) 180F

—Arts. 309, 311 and 226—Council of Scientific and Industrial Research — Neither a public body nor part of Government — Art. 311 has no application—Grants in aid from Government, no criterion — Adoption of Fundamental Rules by choice does not convert the body into a public one

(Nov) 525A

—Arts. 309 and 226 — Fundamental Rules framed under Art. 309 are statutory rules — Violation of, is justiciable

(Nov) 525D

—Art. 311 — Service under contract — Clause in contract providing for removal without notice for inefficiency, negligence etc. — Removal for misappropriation and tampering of record — Art. 311 (2) comes into operation as clause does not cover the case — See Constitution of India, Art. 226

(April) 164B

—Art. 311 — Infringement of Art. 311 (2) gives cause of action to individual even though his employment might have terminated otherwise on the date of petition—See Constitution of India, Art. 226 (April) 164D

(April) 164D

Constitution of India (contd.)

—*Art. 311* — Reduction in rank — All India Services. (Discipline and Appeal) Rules (1955), R. 3 (4)—Government servant officiating in higher post — Reversion to lower post for administrative reasons or unsuitability — Not a reduction in rank

(April) 180H

—*Art. 311* — 'Reduction in rank' — Principles to determine — Government servant officiating in a post — Reversion to substantive post if and when amounts to reduction in rank — Probationer or temporary servant — Termination of service — When amounts to punishment attracting *Art. 311 (2)* — Principles equally apply to a post held on deputation until further orders

(April) 180I

—*Art. 311* — Dismissal under Bengal Primary Education Act (4 of 1919)—No rules for enquiry or dismissal under Act or rules thereunder—Rules of natural justice should be followed — See Civil Services — Bengal Primary Education Act (4 of 1919), S. 66 (2) (P)

(Aug) 397D

—*Art. 311* — Disciplinary proceedings against petitioner a primary teacher who was on hunger strike — Reasonable opportunity to show cause—Charge-sheet containing 16 charges — Served on petitioner while still on hunger strike — Petitioner growing weak — Inspector's *ex parte* report on which charges were framed not supplied—Charge-sheet allowing only three days to show cause — Petitioner not having even piece of paper to make defence — No opportunity to study relevant documents—Time allowed to show cause held not sufficient — No reasonable opportunity held given to show cause — (Civil Services—Bengal Primary Education Act (4 of 1919), S. 66 (2) (p), — Rules under R. 12)

(Aug) 397F

—*Art. 311* — Suspension of delinquent in consequence of pending criminal case against him — Discharge of delinquent in criminal case — Delinquent is deemed to have been reinstated and is entitled to recover full salary and allowances — Initiation or continuance of departmental proceedings on same allegations cannot revive old order of suspension — Fresh order of suspension necessary unless statutory rules provide for automatic revival of old order of suspension

(Sep) 461

—*Art. 311* — Council of Scientific and Industrial Research—Neither a public body nor part of Government—*Art. 311* not applicable — See Constitution of India, Art. 309

(Nov) 525A

—*Art. 311 and Fundamental Rule 113* — Reversion from officiating to substantive post — Petitioner cannot complain — On facts,

Constitution of India (contd.) To be considered held, there was no violation of Fundamental Rule 113, also : 1968 Lab I C 320 (Cal), **Reversed** (Nov) 525B

—*Arts. 311 (2), 12, 298, 72 and 102 and Sch. 7, List 1, Entries 43 and 44* — Employees of Durgapur Steel Plant, appertaining to Hindustan Steel Ltd., a non-statutory company registered under Companies Act, do not hold civil post under Government of the Union—Tests to see whether employee holds Civil post under Government indicated

(Feb) 95A

—*Arts. 311 (2), 226, 132*—Not applicable to enforce contract of service with Govt. which is still subsisting — Whatever the grievance of the employee he must seek his remedy under general law and not under *Art. 226* in the absence of any statutory right or liability even where the contract is with the Government. (The question though of public importance was not one which came within terms of *Art. 132* — Leave refused)

(Feb) 95B

—*Arts. 311 (2), 132*—Employee of Durgapur Steel Plants does not hold civil post under Union—Question already decided by Supreme Court—Held no more substantial question of law—Certificate for leave to appeal to Supreme Court refused — See Constitution of India, *Art. 132*

(Feb) 95C

—*Art. 311 (2)*—Dismissal of civil servant on serious charges—Delay in filing writ—Condonation of delay—See Constitution of India, *Art. 216*

(Apr) 164C

—*Art. 311 (2)* — Procedure contemplated by cl. (2) — Compliance of waiver

(Apr) 180G

—*Art. 311 (2)*—Order of dismissal cannot have effect from any date prior to that on which it is communicated to delinquent Government servant

(Aug) 397A

—*Arts. 311 (2), 226* — Reasonableness of opportunity to show cause against action proposed — Factors to be taken into consideration by Court

(Aug) 397C

—*Art. 314*—Member of Indian Civil Service allotted to Assam on deputation to Central Government—Rights and conditions of service as respects remuneration, leave and pension are governed by *Art. 314*

(Apr) 180B

—*Arts. 326, 173* — Scope — Distinction should be made between disqualification under Constitution and disqualification under any other Act — Residence is not a qualification prescribed under *Art. 326*—It cannot, therefore, be tried by Court trying election petition under S. 100 (1) (d) (iv) of Representation of the People Act (1951)

(June) 267C

Constitution of India (contd.)

—Art. 335 — Efficiency of administration cannot be impaired by reservation or special provision—See Constitution of India, Art. 16 (4) (Dec) 576A

—Sch. 7, List 1, Entry 43 — Government company cannot be identified with State—See Constitution of India, Art. 311 (2) (Feb) 95A

—Sch. 7, List 1, Entry 44 — Government company cannot be identified with State—See Constitution of India, Art. 311 (2) (Feb) 95A

Contempt of Courts Act (32 of 1952), Ss. 1, 4

—Appeal against conviction by accused dismissed by High Court and accused directed to surrender to bail — Additional District Magistrates not carrying out order—Time allowed to accused which was in contravention of Rule 43 (5) of the Criminal Rules and Orders — Additional District Magistrates member of Indian Administrative service inexperienced in Court procedure and relying on Bench Clerk—Held, that the Additional District Magistrates were guilty of contempt of Court but in the circumstances High Court would accept apology tendered by them — Laxity in judicial administration in the District deplored (Dec) 602

—Ss. 2 and 3 — Scandalizing the Court — Right of press to criticise—(Constitution of India, Arts. 19, 215) — (Penal Code (1860), S. 228)—(Criminal P. C. (1898), S. 480) (Jan) 1A (SB)

—S. 3—In the garb of criticism the press cannot commit contempt of Court — See Contempt of Courts Act (1952), S. 2 (Jan) 1A (SB)

—S. 3—Apology — Principles — See Contempt of Courts Act (1952), S. 4 (Jan) 1B (SB)

—Ss. 4 and 3 — Apology — Principles—It only minimises the gravity of the offence and does not wholly absolve the contemner of his guilt (Jan) 1B (SB)

—S. 4 — Additional District Magistrates not carrying out order of High Court—Tender of apology—See Contempt of Courts Act (1952), S. 1 (Dec) 602

Contract Act (9 of 1872), Ss. 2 (d), 10, 69 and 70—

—Doctrine of privity of contract—Scope — Contract for purchase of goods entered with company—Company in turn contracting with firm for supply of such goods — Transaction between company and firm only in aid and for benefit of purchaser — All moneys for goods paid only by purchaser through company — No intention for purchaser to pass property in money to firm until delivery of goods—Goods not supplied

Contract Act (contd.)

— No privity of contract or trust exists between purchaser and firm — Yet firm bound to return money to purchaser for 'prevention of unjust enrichment' (Oct) 496C

—S. 10 — Contract—'A' contracting with 'B' for purchase of goods from 'B'—'B' independently arranging with 'C' for supply—There is no contract between 'A' and 'C' for want of privity — See Contract Act (9 of 1872), S. 2 (d) (Oct) 496C

—S. 15 — Coercion — There must be a threat to commit an act forbidden by Penal Code — Threat to commit suicide is also coercion—See Special Marriage Act (1954), S. 25 (iii) (June) 293A

—S. 16 — Gift by person to his counsel's wife—Validity—See T.P. Act (1882), S. 122 (Feb) 111

—S. 23 — Mortgage by deposit of title deeds—Mortgage in contravention of R. 94A (2) of Defence of India Rules, 1939—Transaction is illegal and mortgagee cannot recover money from mortgagor — See Defence of India Rules (1939), R. 94A, sub-rr. (2), (7), (10) (Dec) 573D

—S. 43 — Joint judgment-debtor making payment — Limitation saved for all — See Limitation Act (1908), S. 20 (Aug) 390B

—S. 62—Party to contract transferring its liability to third person — Consent of other party to contract is essential (May) 233C

—S. 69 — Reimbursement — Purchaser contracting with company for purchase of goods — Company arranging with another firm for supply—Failure of firm to supply goods—Money passed to firm through company—Firm bound to return money to purchaser—See Contract Act (9 of 1872), S. 2 (d) (Oct) 496C

—S. 70 — Purchaser contracting with Company for purchase of goods — Company independently contracting with another firm for supply — Purchaser making payments through Company—Goods not supplied by firm—Firm bound to return money to purchaser—See Contract Act (9 of 1872), S. 2 (d) (Oct) 496C

—S. 73—Breach of contract — Allegation of date of breach — Allegation material and relevant in awarding damages (Oct) 493D

—S. 171—Money of client with solicitor — Solicitor has lien over it for his costs—See Income-tax Act (1922), S. 2 (6C) (May) 211

—S. 182 — Agency — Determination — Agent and middleman—Difference pointed out—Contract for purchase of goods from company—Company not having such goods — Company subsequently contracting with

Contract Act (contd.)

firm dealing in such goods—Contracts independent, distinct and different in terms, time and price—No direct contract or correspondence between firm and purchaser—Transaction between company and firm only in aid and benefit of purchaser—All payments for goods made only by purchaser through company—Contracts are not one composite contract—Company is not agent but only middleman (Oct) 496A

—*Art. 359*—Emergency—Proclamation lifting emergency—Orders which could not be reviewed can be reviewed judicially—*See* Constitution of India, Art. 19 (1) (f) (Oct) 474D

Corporation—Statutory—Powers of—Concept of—*See* Constitution of India, Art. 311 (2) (Feb) 95A

Court-fees Act (7 of 1870)

See under Court-fees and Suits Valuations.

COURT-FEES AND SUITS VALUATIONS

—*Court-fees Act (7 of 1870), Pre.*—Interpretation of fiscal statutes—Principles of construction—*See* Income-tax Act (1922), S. 42 (1) (Feb) 71

Criminal Procedure Code (5 of 1898), S. 4 (1) (h)—Use of word “complaint” in S. 13 of Official Secrets Act (1923)—Significance of—*See* Official Secrets Act (1923), S. 3 (Nov) 535

—*S. 4(1)(p)*—Officer of Railway Protection Force is not Police Officer properly so-called—*See* Railway Property (Unlawful Possession) Act (29 of 1966), S. 3 (Dec) 594A

—*S. 4 (1) (t)*—Public prosecutor—“Engaging” lawyer for state—Lawyer, if public prosecutor—*See* Criminal P. C. (1898), S. 492 (2) (July) 321A

—*S. 4 (1) (t)*—Assistant Public Prosecutor is unknown to law—*See* Criminal P. C. (5 of 1898), S. 270 (July) 321N

—*Ss 4 (1) (t), 492 (2), 270*—Duty of Public Prosecutor of district, pointed out (July) 321O

—*S. 5 (2)*—Prosecution of accused under Official Secrets Act—Accused cannot claim copies of documents referred to in S. 173, Criminal P. C., as of right—Special procedure of complaint provided in Act—*See* Official Secrets Act (1923), S. 3 (Nov) 535

—*S. 10(2)*—Appointment of Public Prosecutor—“Engaging lawyer” for State, if appointment—*See* Criminal P. C. (1898), S. 492 (2) (July) 321A

—*Ss. 83, 84, 101*—Court receiving search warrant for execution—Not required to decide its legality (July) 340A

Criminal P. C. (contd.)

—*S. 83*—Removal of seized article to Court issuing search warrant—*See* Criminal P. C. (1898), S. 99 (July) 340B

—*Ss. 83, 537*—Issuing Court putting the name of executing Court in the form of search warrant—Mere technical irregularity—Warrant (July) 340C

—*S. 84*—Court receiving search warrant for execution—Not required to decide its legality—*See* Criminal P. C. (1898), S. 83 (July) 340A

—*Ss. 90, 492, 270, 286*—Issue of summons to material witnesses—Investigating officer reporting that witness could not be found—Held, that it was duty of prosecution to pray for a warrant and proclamation for compelling production of witness and that the Public Prosecutor failed in discharging his legal function (July) 321J

—*Ss. 99, 83, 101*—Removal of seized articles to Court issuing search warrant—Within discretionary power of the Court executing search warrant—Refusal to send certain articles not sufficiently identified—Valid (July) 340B

—*S. 101*—Court receiving search warrant for execution—Not required to decide its legality—*See* Criminal P. C. (1898), S. 83 (July) 340A

—*S. 101*—Removal of articles seized to court issuing search warrant—*See* Criminal P. C. (1898), S. 99 (July) 340B

—*S. 103*—Search under S. 132, Income-tax Act (1961)—Provisions of S. 103 to be followed—*See* Income-tax Act (1961), S. 132 (1) (c) (v) (Sep) 431E

—*S. 103*—Search list prepared by subordinate to Sp. Police Officer—No need of counter-signature by Sp. Police Officer—*See* Suppression of Immoral Traffic in Women and Girls Act (1956), S. 15 (Sep) 451G

—*S. 154*—Cooking up story—Nothing is more reprehensible than to cook up a story for recording an F. I. R., and attempt to improve the cooking of the story at the trial stage in any case—It is more so when it is done to foist a charge of murder (July) 321L

—*S. 161*—Magistrate taking cognisance of offence on police challan—Supplementary charge-sheet against additional accused who were examined as witnesses in previous challan—De novo trial against all accused ordered by Magistrate—Procedure illegal—*See* Criminal P. C. (1898), Chap. 18 (June) 316C

—*S. 172 (2)*—Police diary—Use of, by Court (Sep) 451D

—*S. 173*—Cognisance taken on police challan under the section—No further in-

Criminal P. C. (contd.)

investigation by police thereafter is legal—*See* Criminal P. C. (1898), S. 190 (1) (b)

(June) 316A

—S. 173 — Magistrate taking cognisance of offence on police challan—Supplementary challan against accused who were examined as witnesses in previous challan submitted by the police—Magistrate thereupon ordered de novo trial against all—Procedure illegal—*See* Criminal P. C. (1898), Chap. 18

(June) 316C

—S. 173 — Prosecution of accused under Official Secrets Act — Accused cannot claim copies of documents referred to in S. 173 as of right — *See* Official Secrets Act (1923), S. 3

(Nov) 535

—S. 173(4)—Institution of case for offences under Railway Property (Unlawful Possession) Act — It is on complaint and compliance with S. 173 (4) not necessary — *See* Railway Property (Unlawful Possession) Act (29 of 1966), S. 3

(Dec) 594A

—S. 178 (2) — Ss. 251-A, 178 (2) and 540 co-exist supplementing one another—Neither S. 178 (2) nor S. 540 is controlled by S. 251-A — *See* Criminal P. C. (1898), S. 251-A (2)

(Sep) 451E

—S. 190 (1) — Cognizance — Complaint filed by Investigating Officer under Ss. 120B/20, 467/471 read with S. 34, Penal Code — Sufficient to take cognizance — *See* W. B. Criminal Law Amendment (Special Courts) Act (21 of 1949), S. 5 (1) (prior to amendment in 1960)

(Oct) 481A

—S. 190 (1) (a) (b) — Prosecution of accused under Official Secrets Act — Magistrate takes cognizance of offence thereunder only under S. 190 (1) (a) and not under 190 (1) (b)—*See* Official Secrets Act (1923), S. 3

(Nov) 535

—Ss. 190 (1) (b) and 173—Magistrate taking cognizance under S. 190 (1) (b) on police challan under S. 173—No further investigation by notice thereafter is legal

(June) 316A

—S. 190 (1) (b) — Officer of Railway Protection Force is not police officer—*See* Railway Property (Unlawful Possession) Act (29 of 1966), S. 3

(Dec) 594A

—S. 195 (2) — “Competent authority” under Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951, is not “Court” within meaning of S. 195 (2) (April) 161A

—S. 196-A—Sanction to prosecute—Sanction given by authority in whose time prosecution was launched and not by him in whose time offence took place — Sanction valid—*See* Criminal P. C. (1898), S. 197

(Oct) 481B

Criminal P. C. (contd.)

—Ss. 197, 196-A—Prosecution of members of Railway Protection Police under Ss. 120B/420 and under Ss. 467/471 read with S. 34, Penal Code — Accused persons removable from service by Commandant of R. P. P. — Sanction under S. 197 or under S. 196-A, Criminal P. C. is not necessary — Contention that sanction to prosecute is defective inasmuch as it is given by officer during whose time prosecution is launched and not by officer during whose time alleged offences are committed, is misconceived

(Oct) 481B

—S. 204 (1A) — Witnesses not included in list but mentioned in Bainamah filed later cannot be examined as remaining “witnesses” under S. 256 — *See* Criminal P. C. (1898), S. 256

(Sep) 421

—Chap. 18 (Ss. 206-220) and S. 350 — Magistrate cannot halt proceeding under Chap. 18 in midway and order trial de novo — S. 350 alone permits trial de novo

(June) 316B

—Chap. 18 (Ss. 206-220) and Ss. 161, 173—Magistrate taking cognizance of offence on police challan — Police submitting supplementary charge-sheet against additional accused who were examined as witnesses in previous challan — Magistrate ordering de novo trial against all accused—Procedure illegal—Correct procedure explained

(June) 316C

—S. 209 (1)—Order of discharge under set aside and Magistrate directed to make commitment—Magistrate not required to follow procedure laid down in Ss. 211, 212 and 213 — *See* Criminal P. C. (1898), S. 437

(April) 161B

—Ss. 233, 235, 239 — Penal Code (1860), Ss. 34, 120-B—Common intention and conspiracy — Distinction — Prosecution of four members of Railway Protection Police under Ss. 120-B/420 and under Ss. 467/471 read with S. 34, Penal Code—Charge for offences alleged to have been committed in furtherance of common intention of two persons, but conspiracy alleged to be hatched by four persons—Offences could not be said to have been committed in common intention of all the four—Charge was not defective

(Oct) 481D

—S. 235 — Common intention — Offence with common intention of two accused — Conspiracy between four—Charge of conspiracy with other offences not bad in law—*See* Criminal P. C. (1898), S. 233 (Oct) 481D

—S. 239 — Common intention — Offence with common intention of two accused — Conspiracy between four — Charge of conspiracy with other offences not bad in law—*See* Criminal P. C. (1898), S. 233 (Oct) 481D

Criminal P. C. (contd.)

—S. 251 (b)—Report by officer of Railway Protection Force is not police report — *See* Railway Property (Unlawful Possession) Act (29 of 1966), S. 3 (Dec) 594A

—S. 251A—Prosecution of accused under Official Secrets Act — Procedure for trial would be under S. 252 and not under S. 251-A — *See* Official Secret Act (1923), S. 3 (Nov) 535

—Ss. 251-A (2), 178 (2) and 540 — Provisions co-exist, supplementing one another (Sep) 451E

—S. 252 — Prosecution of accused under Official Secrets Act — Procedure for trial would be under S. 252—*See* Official Secrets Act (1923), S. 3 (Nov) 535

—S. 252(2)—Remaining witnesses in S. 256 include only such witnesses as are included in list submitted under S. 252 (2) but subsequently not examined— *See* Criminal P. C. (1898), S. 256 (Sep) 421

—Ss. 256, 252 (2) and 204 (1-A)—Examination of the remaining witnesses — “Remaining witnesses”—Meaning—List of witnesses given under S. 204 (1-A)—Witnesses not included there sought to be examined as ‘remaining witnesses’—Such witnesses mentioned in Bainanamah filed later — Permission if given is improper (Sep) 421

—S. 270—Engaging lawyer on behalf of State to work as Public Prosecutor—Appointment is illegal — *See* Criminal P. C. (1898), S. 492 (2) (July) 321A

—S. 270—Public prosecutor must be fair to Court, independent and unbiased — *See* Criminal P. C. (1898), S. 492 (July) 321G

—S. 270 — Material witnesses summoned but not attending — Investigation officer reporting that witness could not be found — Duty of prosecution to ask for warrant and proclamation, pointed out — *See* Criminal P. C. (1898), S. 90 (July) 321J

—Ss. 270, 492 (2), 4 (1) (t) — Assistant Public Prosecutor is unknown to law (July) 321N

—S. 270—Duty of Public Prosecutor of District, pointed out — *See* Criminal P. C. (1898), S. 4 (1) (t) (July) 321O

—S. 286—Public Prosecutor must be fair to Court, independent and unbiased — *See* Criminal P. C. (1898), S. 492 (July) 321G

—S. 286—Material witness summoned but not attending — Investigating officer reporting that witness could not be found — Duty of prosecution to ask for warrant and proclamation, pointed out — *See* Criminal P. C. (1898), S. 90 (July) 321J

—Ss. 299, 367 — Appreciation of evidence — Judgment should not show complete negation of presumption of innocence of accused

Criminal P. C. (contd.)

—There is no presumption in law of absolute truthfulness of prosecution witnesses — Duty of Court to weigh the probability of prosecution evidence, pointed out (July) 321E

—S. 340—Adjournment—Defence counsel absent — Trial continued — Propriety — *See* Criminal P. C. (1898), S. 344 (July) 321B

—S. 340—Appointment of defence counsel by Government — Counsel appointed absent due to illness — Appointment of another counsel on same day without being furnished with brief and continuing with trial — It is negation of fair trial — Court’s duty pointed out (July) 321C

—Ss. 340, 423, 439, 350 — Constitution of India, Arts. 226 and 22 — Parties should be given opportunity to advance arguments — No distinction can be made in case of complainant and accused—Principles of natural justice also ensure that both sides should be heard fairly and reasonably — Same principles hold good in case of successor Magistrate, as also in trials, appeals and revisions —S. 350 does not constitute any bar in limine or otherwise (Oct) 492A

—Ss. 344 and 340—Adjournment—Counsel for defence absent due to illness — Trial, continuing in absence of defence lawyer — Propriety (July) 321B

—S. 350 — Trial de novo — When can be ordered—*See* Criminal P. C. (1898), Chap. 18 (June) 316B

—S. 350 — Evidence partly recorded by previous magistrate — Demeanour of witnesses not likely to help appreciation of evidence—Successor magistrate not rehearing witnesses — Held, no prejudice called —*See* W. B. Criminal Law Amendment (Special Courts) Act (21 of 1949), S. 9 (2) (Oct) 481C

—S. 350—Parties must be given opportunity of being heard — Principles applying to predecessor also apply to successor magistrate—*See* Criminal P. C. (1898), S. 340 (Oct) 492A

—S. 367 — Appreciation of evidence — Truthfulness of witness — Presumption — Judgment should not show complete negation of presumption of innocence of accused —*See* Criminal P. C. (1898), S. 290 (July) 321E

—S. 367—Conflict between oral evidence of eye-witness and medical evidence—Duty of Court — *See* Evidence Act (1872), S. 3 (July) 321I

—S. 403—Acquittal on charge under S. 302/31, Penal Code—No appeal against acquittal — Appeal by accused against their conviction under other charges — Appellate Court

Criminal P. C. (contd.)

cannot convict under S. 302/34, Penal Code but can convict under S. 304/34, Penal Code — *See* Criminal P. C. (1898), S. 423 (Jan) 28D

— *Ss. 423, 403*—Autrefois acquit—Acquittal on charge under S. 302/34, Penal Code — No appeal against acquittal — Accused convicted under other charges filing appeal—Appellate Court cannot convict under S. 302/34 but can convict under S. 304/34, Penal Code (Jan) 28D

— *S. 423*—Appeal — Retrial—Prosecution unable to prove offence against accused — Materials in evidence pointing strongly to accused's innocence — Retrial not ordered as it would enable prosecution to brush up defects appearing in the evidence given in the trial — *Accused acquitted* (July) 321D

— *S. 423* — Natural justice demands that both sides should be heard — *See* Criminal P. C. (1898), S. 340 (Oct) 492A

— *S. 423 (1)*—Held eye-witness's evidence stood discredited and conviction based on it wrong — *See* Evidence Act (1872), S. 3 (July) 321I

— *Ss. 435, 436* — Scope — Whether High Court can entertain revisional application in first instance (June) 287

— *Ss. 436, 437*—Scope—Order of discharge — Power of Sessions Judge to direct further inquiry and order commitment—AIR 1941 Oudh 409, Dissent. from (Apr) 161C

— *S. 436* — Scope — *See* Criminal Procedure Code (5 of 1898), S. 435 (Jun) 287

— *Ss. 437, 209 (1)* — Order of discharge under S. 209 (1) set aside by Sessions Judge and Magistrate directed to make commitment—Magistrate is not required to follow procedure laid down in *Ss. 211, 212 and 213* (Apr) 161B

— *S. 437*—Scope—Discharge order—Power of Sessions Judge to direct further inquiry and order commitment—AIR 1941 Oudh 409, Dissented from — *See* Criminal P. C. (1898), S. 436 (Apr) 161C

— *S. 439* — Natural justice demands that both sides should be heard — *See* Criminal P. C. (1898), S. 340 (Oct) 492A

— *S. 439* — Revision against acquittal — Evidence recorded and arguments heard by trying Magistrate — Retirement before delivery of judgment—The refusal by successor Magistrate to give opportunity to complainant to advance arguments in support of his contention—Held a glaring defect in procedure and has caused a miscarriage of justice vitiating the ultimate order of acquittal — Hence order of acquittal was unsustainable — (Oct) 492B

— *S. 480* — Scandalizing the Court — *See* Contempt of Courts Act (1952), S. 2 (Jan) 1A (SB)

Criminal P. C. (contd.)

— *Ss. 492, 270, 286* — Public Prosecutor must be fair to Court, independent and unbiased (July) 321G

— *S. 492*—Material witnesses summoned but not attending — Investigating officer reporting that witness could not be found — Duty of prosecution to ask for warrant and proclamation, pointed out—*See* Criminal P. C. (1898), S. 90 (July) 321J

— *S. 492 (1)*—Court took judicial notice of the fact that in 1966-67 there had been for the District of 24 Parganas, a Public Prosecutor appointed generally by the State Government under S. 492 (1) (July) 321M

— *Ss. 492 (2), 270, 10 (2) and 4 (1) (i)*—Appointment of Public Prosecutor—Additional District Magistrate 'engaging' lawyer on behalf of State—Does not amount to appointing a lawyer as Public Prosecutor—Conduct of case by such lawyer is illegal — Trial is vitiated—Duty of Court indicated (July) 321A

— *S. 492 (2)* — Defence lawyer not able to carry out his duties properly—Duty of Court pointed out — *See* Criminal P. C. (1898), S. 537 (July) 321H

— *S. 492 (2)*—Assistant Public Prosecutor is unknown to law—*See* Criminal Procedure Code (5 of 1898), S. 270 (July) 321N

— *S. 492 (2)* — Duty of Public Prosecutor of District, pointed out — *See* Criminal P. C. (1898), S. 4 (1) (July) 321O

— *S. 537* — Issuing Court putting name of executing Court in form of search warrant—It is mere irregularity — *See* Criminal Procedure Code (5 of 1898), S. 83 (July) 340C

— *Ss. 537, 492 (2)* — Failure of justice — Illegal appointment of Public Prosecutor — Defence lawyer not able to carry out his duties properly — Failure of Judge to weigh prosecution evidence properly — Held, there was prejudice to accused and failure of justice — Had there been only an illegal appointment of Public Prosecutor, the irregularity would have been curable under S. 537 July 321H

— *S. 540*—*Ss. 251-A, 178 (2) and 540* coexist supplementing one another—Neither S. 178 (2) nor S. 540 is controlled by S. 251-A — *See* Criminal P. C. (1898), S. 251-A (2) (Sep) 451E

Customs Act (52 of 1962), S. 30 read with *Ss. 111 and 112* — Mens rea whether necessary element — Liability of master for filing incorrect manifest when goods have been clandestinely imported in his vessel without his knowledge (June) 260A

— *S. 111 (f)* — Non-prescription of regulation—Form manifest under the old Act is to continue in force — Non-prescription of

Customs Act (contd.)

regulation does not make S. 111 (f) wholly unworkable (June) 260B

—S. 112 — Interpretation of — Mens rea whether necessary element—See Customs Act (1962), S. 30 read with S. 111 (June) 260A
 Deed—Construction—Will—Construction — Principles of — See Income Tax Act (1922), S. 42 (1) (Feb) 71

Defence of India Act (1962), S. 30, Proviso —
Defence of India Rules (1962), R. 113 —
 Arbitrator's power of assessing monthly compensation is not controlled by S. 30 (i)
 —Claimant must have opportunity to produce relevant materials (June) 286

Defence of India Rules (1939), R. 75-A—W. B. Requisitioned Land (Continuance of Powers) Act (8 of 1951), S. 3 — S. 3 does not enlarge the extent or scope of order of requisition made under the Defence of India Rules, 1939 — Plots of land requisitioned for grain storage godown—Government letting out to other department for carpentry workshop — Original purpose held ceased and the owner was entitled to get them back (Sep) 446
 —R. 94-A — Instrument creating charge— Interpretation of—Rule including within its ambit diverse things — No genus is discernible—Principle of ejusdem generis cannot be applied—AIR 1957 Trav-Co 6, Dissented from (Dec) 578B

—R. 94-A (1) - Word 'charge' in R. 94-A(1)
 — Word used in generic sense—It embraces mortgages within meaning of words "instrument creating a charge on the assets of Company" (Dec) 578A

—R. 94-A, Sub-rr. (2), (7), (10)—Mortgage by deposit of title deeds — Mortgage created in contravention of R. 94-A (2) — Transaction is illegal — Mortgagee cannot recover money from mortgagor (Dec) 578D

—R. 94-A (9)—Notification No. D. 4114-E. C. I. 144 issued under — Exemption under notification — Claim for exemption — That transaction has been entered in ordinary course of normal business and it is strictly and solely for the purpose of that business, must be established (Dec) 578E

—R. 30 (1) (b)—Detention order served in jail, not illegal — See Preventive Detention Act (1950), S. 3A (Sep) 422A

—R. 113 — Award of compensation — Power of arbitrator not controlled by S. 30 (1) of the Act — See Defence of India Act (1962), S. 30 Proviso (Jun) 256

—R. 125 (2) — West Bengal Rice and Paddy Control Order (1966), Paras 2 (c) and 5 (c), Proviso — "Free period" — No date given for making application for licence in order to get exemption during free period — Application can be submitted at any time

Defence of India Rules (contd.)

after commencement of order and before free period expires (Oct) 474A

Divorce Act (4 of 1869), S. 10 — Desertion —
 Essential conditions to prove — See Hindu Marriage Act (1955), S. 10 (Dec) 573A

EDUCATION

—**Bengal Primary Education Act (4 of 1919), S. 66(2)(p), Rules made thereunder, R. 12—**Dismissal of employee without inquiry — No procedure for holding inquiry laid down in Act or in rules made thereunder—Even then principles of natural justice must be observed before passing order of dismissal: AIR 1950 S C 222 held no longer good law in view of AIR 1967 S C 1269 (Aug) 397D

—S. 66 (2) (p)—Rules under R. 12—Rules silent about procedure of enquiry — Rules of natural justice should be followed — See Constitution of India, Art. 311 (Aug) 397F

—S. 66 (2) (t), Rules made thereunder, R. 12—Rule 12 is applicable to office staff of Board and not to teachers of primary schools (Aug) 397B

—**West Bengal Board of Secondary Education Act (37 of 1963), S. 45 (1) and (2) (f)—W. B. Board of Secondary Education (Appointment of Secretary) Rules (1963), R. 8 —**Validity of R. 8 — Rule comes within scope of S. 45 (1) and is perfectly valid and intra vires (Apr) 175A

—Ss. 45 (1) and 46 — W. B. Board of Secondary Education (Appointment of Secretary) Rules (1963), R. 8 — R appointed by Board of Secondary Education established under W. B. Secondary Education Act, 1950 and his post of Secretary continued under 1963 Act—Order of State Government under R. 8 dispensing with his services on payment of three months' salary — Held, R was employee of the new Board — Powers had been specifically given under 1963 Act to State Government to make rules for Secretary and power under R. 8 was validly exercised: 71 Cal W N 415, Reversed (Apr) 175B

—S. 46 — Dismissal of secretary of the Board constituted under the old Act giving him three months salary, though post of Secretary of the Board continued under new Act — Validity and effect—See Education — W. B. Board of Secondary Education Act (37 of 1963), S. 45 (1) (Apr) 175B

—**West Bengal Board of Secondary Education (Appointment of Secretary) Rules (1963), R. 8 —**Validity — See Education — W. B. Board of Secondary Education Act (37 of 1963), S. 45 (1) and (2) (f) (Apr) 175A

Education — West Bengal Board of Secondary Education (Appointment of Secretary) Rules (contd.)

— *R. 8* — Exercise of power under — Propriety — See Education — W. B. Board of Secondary Education Act (37 of 1963), S. 45 (1) (Apr) 175B

Essential Commodities Act (10 of 1955), S. 3 — Licencee under Imports (Control) Order (1955) carrying on iron and steel business apart from import business — Violation of term of licence — Government cannot take any other measure apart from the provisions of statute—See Constitution of India, Art. 19 (1) (g) (Jan) 18C

Estate Duty Act (34 of 1953), S. 2 (15) — Property passing or deemed to pass on death — What is—See Estate Duty Act (1953), S. 6 (Mar) 139A

— *S. 2 (15)* — Property of deceased—'Converted from one species into another by any method' Meaning of — Conversion contemplated by section indicated (Mar) 139C

— *Ss. 6, 10 and 2 (15)* — "Property passing or deemed to pass on his death" — Wife of X purchasing house in her own name and with her own funds under a registered sale-deed executed by owner 12 years before her husband's death—Title deed cannot be called enami — Wife living in house along with husband since date of purchase — No legal evidence to show that purchase money was advanced by husband or that he used house as his own dwelling house — House held could not pass or be deemed to pass on husband's death so as to be included in estate of deceased for purposes of estate duty (Mar) 139A

— *S. 10* — Property passing or deemed to pass on death — Held that on facts and circumstances of the case house purchased by wife in her own name could not be included in principal value of the estate of deceased—See Estate Duty Act (1953), S. 6 (Mar) 139A

— *S. 10* — Scope and interpretation—Property taken under gift — When deemed to pass on donor's death — Conditions for — Possession and enjoyment of property by donor should be in proprietary right and not in virtue of marital rights (Mar) 139B

Evidence Act (1 of 1872), S. 3 — Appreciation of evidence—Truthfulness of witnesses — Presumption — See Criminal P. C. (1898), S. 290

— *Ss. 3, 45 and 59* — Criminal P. C. (1898), Ss. 367, 423 (1) — Medical evidence conflicting with oral evidence of eye-witnesses — Oral evidence of eye-witnesses not corroborated in material particulars by any circumstantial evidence—Held, eye-witnes-

Evidence Act (contd.)

ses' evidence stood discredited and Court was wrong in convicting accused on such evidence (July) 321L

— *S. 3* — Attempt to improve upon prosecution story — Effect — See Criminal Procedure Code (5 of 1898), S. 154 (July) 321L

— *S. 3* — Corroboration — Accomplice witnesses — Pimps and prostitutes are accomplice witnesses in case against accused for keeping a brothel—Evidence not sufficient without independent corroboration — See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 2 (a) (e) (f) (Aug) 416

— *S. 13* — Question as to whether applicant's mark is identical or deceptively similar to trade mark of opponent — Judgments in other cases — Admissibility of, in evidence — See Trade and Merchandise Marks Act (1958), S. 12 (1) (Feb) 80D

— *S. 32* — Applicability — Contract of sale — Inspection of goods by representative of purchaser — Representative in ordinary course of business going for such inspection and reporting to purchaser — Statement of representative on such inspection — Statement admissible (Oct) 496B

— *Ss. 38 and 84* — Report of case appearing in newspaper—Report of case published in Statesman (Sep) 451I

— *S. 43* — Question whether trade-mark is identical or deceptively similar to trade-mark of opponent — Opponent citing judgment in which parties, facts and trade marks were entirely different — Such judgments or facts cannot be used against applicant—See Trade and Merchandise Marks Act (1958), S. 12 (1) (Feb) 80D

— *S. 45* — Expert evidence — Admission of evidence of expert — Fact that he was competent to give expert evidence must be proved—Law does not permit assumption without evidence on material point of competence (July) 231F

— *S. 45* — Conflict between oral evidence of eye witnesses and medical evidence — Duty of Court — See Evidence Act (1872), S. 3 (July) 321I

— *S. 45* — Medico-legal jurisprudence — Medical expert performing post-mortem examination 13 hours after death reporting rigor mortis — No information if there was any element of cadaveric rigidity or spasm present — Cadaveric spasm occurs in cases in which death was immediately preceded by state of great nervous tension or excitement caused by terror or struggle — Cadaveric spasm is to be distinguished from rigor mortis and is not rigor mortis—Medical evidence of the expert held, could not be relied upon (July) 321K

Evidence Act (contd.)

—S. 45 — Use of medical evidence to determine loss of earning capacity—See Workmen's Compensation Act (1923), S. 2 (1) (g) (Aug) 378B

—Ss. 56 and 57—Judicial notice of the fact that in 1966-67, there had been for District of 24 Paraganas, a Public Prosecutor, appointed generally—See Criminal P. C. (1898), S. 492 (1) (July) 321M

—S. 59 — Conflict between oral evidence of eye witnesses and medical evidence — Duty of Court — See Evidence Act (1872), S. 3 (July) 327I

—S. 84 — Report of ruling appearing in newspaper not relevant and no presumption can arise—See Evidence Act (1872), S. 38 (Sep) 451I

—Ss. 101-102 — Petition for annulment of marriage with lunatic — Burden to prove lunacy is on the petitioner—See Hindu Marriage Act (1955), S. 5 (ii) (June) 304B

—S. 111 — Gift by a person to his counsel's truth — Validity—Proof of spontaneity eliminates proof of independent legal advice —See T. P. Act (1882), S. 122 (Feb) 111

—S. 114—Charge of second marriage during subsistence of first one—Prior marriage must be proved to have been duly solemnised — Presumption in favour of validity of marriage — See Hindu Marriage Act (1955), S. 17 (Feb) 55B

—S. 114—Service of notice of ejectment—Service by registered post — Returned with remark 'left' — Service held bad — Personal service was also bad—Presumption available for service under certificate of posting should not be given effect to, in the context — See Transfer of Property Act (1882), S. 106 (Feb) 109B

—S. 114—There is no presumption of absolute truthfulness of prosecution witnesses—See Criminal P. C. (1898), S. 290 (July) 321E

—S. 114, *Illust. (g)* — Non-production of material witness—Adverse inference "may" be drawn but not necessarily "must" be drawn (June) 293C

—S. 115 — Estoppel — Assessment of unregistered firm — Dissolution — Each partner is an assessee — Decision in appeal by one will not be binding as 'estoppel' on others—See Income-tax Act (1922), S. 30 (Jan) 4D

—S. 115 — Person submitting to jurisdiction of authority — Estoppel from challenging it—See Constitution of India, Art. 226 (Sep) 458A

—S. 115 — Estoppel—There can be no estoppel against law—No amount of admission contrary to law could create such estoppel (Dec) 565D

Evidence Act (contd.)

—S. 120—Gift by a person to his counsel's wife—Validity—See T. P. Act (1882), S. 122 (Feb) 111

Fundamental Rules

See under Civil Services.

General Clauses Act (10 of 1897), S. 3 (42) — "Person" meaning of in O. 30, Civil P. C. — See Civil P. C. (1908), O. 30, R. 10 (Oct) 496E

Guardians and Wards Act (8 of 1890), Ss. 17, 19 and 25 — Hindu Minority and Guardianship Act (1956), S. 13 — Hindu minor boy aged more than five years in custody of mother—Claim by father for custody—S. 19 of former Act be read as subject to S. 13 of latter Act — Welfare of minor should be prime and sole consideration — Change in law so far as Hindus are concerned pointed out (Dec) 573B

—S. 19—Section 19 has to be read subject to S. 13 of Hindu Minority and Guardianship Act (1956) — See Guardians and Wards Act (1890), S. 17 (Dec) 573B

—S. 25 — Welfare of minor is sole consideration — See Guardians and Wards Act (1890), S. 17 (Dec) 573B

HIGH COURT RULES AND ORDER

—**Calcutta High Court Criminal Rules and Orders, R. 43 (5)**—Time allowed by A. D. M. to accused in contravention of R. 43 (5)—Contempt proceeding — Apology—See Contempt of Courts Act (1952), S. 1 (Dec) 602

Hindu Law—Marriage—Ceremonies — Ceremony known as 'Kushandika' is associated with 'nuptial homa' and performance of Sanskar (Feb) 55D

—Religious endowment—Shebait—Document purporting to be by deity represented by Shebait—Not executed by shebait in such capacity or as representing the deity—Admission of execution by shebait not as Shebait of the deity but by one holding power of attorney from him—Held, that the document would not bind the deity but the shebait in his individual capacity (Dec) 565A

—Succession—Thika tenancy held by late karta in absolute severalty — Tenancy devolves by succession and not by survivorship—See Civil P. C. (1908), O. 1, R. 13 (July) 360

Hindu Marriage Act (25 of 1955), Ss. 5 (i), 12 (1) (b)—Lunatic — Means a person of unsound mind—Various degrees of lunacy are not contemplated in the Act—Lunacy Act (4 of 1912), S. 3 (5) (Jun) 301A

—Ss. 5 (ii), 12 (1) (b)—Petition for annulment of marriage with lunatic — Burden to

Hindu Marriage Act (contd.)

prove lunacy lies on petitioner (Jun) 304B
 —Ss. 5 (ii), 12 (1) (b)—Insanity—Standard of proof—Is not that which is required in a criminal case—Court need only be satisfied on balance of probabilities (Jun) 304C

—S. 7—Validity of marriage—Determination of — ‘Expression customary rites and ceremonies’ means sastric ceremonies customarily followed in caste or community to which party belongs (Feb) 55C
 —S. 9 (1)—Withdrawal from society of spouse—Reasonable excuse—Mental cruelty is reasonable excuse (Oct) 477A

—S. 9 (1) and (2)—Suit by husband for restitution of conjugal rights—Discretion of Court—Exercise of—Pleas available independent of those mentioned in sub-s. (2) of S. 9 (Oct) 477B

—S. 10—Desertion—What is not, stated (Oct) 477C

—S. 10—Desertion—Meaning of—Factum of separation and intention to bring cohabitation permanently to an end—Two essential conditions to prove desertion (Dec) 573A

—S. 12 (1) (b) — Lunatic means person of unsound mind — See Hindu Marriage Act (1955), S. 5 (ii) (Jun) 304A

—S. 12 (1) (b)—Petition for annulment of marriage on ground of lunacy—Burden to prove lunacy lies on petitioner — See Hindu Marriage Act (1955), S. 5 (ii) (Jun) 304B

—S. 12 (1) (b) — Insanity—Standard of proof — See Hindu Marriage Act (1955) S. 5 (ii) (Jun) 304C

—S. 12 (1) (c)—Force—Coercion — What amounts to threat to commit suicide is coercion — See Special Marriage Act (1954), S. 25 (iii) (Jun) 293A

—S. 17 — Penal Code (1860), S. 494—Applicability—There must be subsequent marriage during lifetime of spouse from stand-point that prior marriage was duly solemnised—Essential ingredient to prove charge under S. 494—Presumption in favour of validity of marriage (Feb) 55B

Hindu Minority and Guardianship Act (32 of 1956), S. 13—S. 19 of Guardians and Wards Act is subject to S. 13 — See Guardians and Wards Act (1890), S. 17 (Dec) 573B

Hindu Succession Act (30 of 1956), S. 6 Proviso and Explanation I—Suit by karta of Mitakshara joint family—Death of minor coparcener during pendency of suit—Failure to implead his only heir — Suit abates as a whole—See Civil P. C. (1908), O. 22, R. 3 (Feb) 69

HOUSES AND RENTS

—**West Bengal Premises Requisition and Control (Temporary Provisions) Act (5 of 1947), Ss. 3 (1), 3 (3) and 11 (1) (b)—Prohibitory order under S. 3 (3)—No absolute bar placed on the claimant — Things could be done in respect of property with prior permission of the Government—Compensation, held, could not be given for the period — Compensation was, however, payable from time of actual requisition order was issued (Nov) 531B**
 —S. 11 (1) (b) — Property derequisitioned and redelivered—Prohibitory order however not withdrawn for sometime thereafter—Compensation held not payable for such period (Nov) 531C

—S. 11 (1) (b) — Dispute as regards compensation — Arbitrator to fix quantum only for property actually requisitioned — Claim for compensation for other portions said to have been affected by requisition order, held, beyond the scope of reference (Nov) 531A

—S. 11 (1) (b) — Requisition of premises—Dispute regarding monthly compensation — Reference to arbitrator—See Houses and Rents—West Bengal Premises Requisition and Control (Temporary Provisions) Act (5 of 1947), S. 3 (1) (Nov) 531B

—**West Bengal Premises Tenancy Act (12 of 1956), S. 4—Conditions for valid deposit—See Houses and Rents—West Bengal Premises Tenancy Act (1956), S. 21 (1) (Feb) 104B**

—Ss. 17, 21—Deposit of rent with Rent Controller, without previous tender is not valid payment — Tender by cheque, when valid (Jan) 12A

—S. 17—“Default”—Expression does not refer to any blameworthy conduct on the part of tenant—It merely refers to the fact of non-payment of rent for any particular period (Jan) 12C

—S. 17 (1)—Tender in cash is not by itself good payment unless followed by valid deposit before Rent Controller—See Houses and Rents—West Bengal Premises Tenancy Act (12 of 1956), S. 21 (Jan) 12B

—S. 21—Deposit of rent with Rent Controller, without previous tender is not valid payment—Tender by cheque when valid—See Houses & Rents—West Bengal Premises Tenancy Act (12 of 1956), S. 17 (Jan) 12A

—Ss. 21, 22 and 17 (1)—Refusal of landlord to accept cheque — Protection under Act when available to tenant (Jan) 12B

—S. 21—Scope—Powers of Deputy Registrar—See Houses and Rents — West Bengal Premises Tenancy Act (12 of 1956), S. 26 (2), (4) (Feb) 104A

—Ss. 21 (1) & 4—Scope and applicability — Conditions for valid deposit (Feb) 104B

Houses and Rents—West Bengal Tenancy Act (contd.)

—S. 22—Refusal of landlord to accept cheque—Protection under Act when available to tenant—*See* Houses and Rents—West Bengal Premises Tenancy Act (12 of 1956), S. 21 (Jan) 12B

—Ss. 26 (2), (4) and 21—Scope—Powers of Deputy Registrar—Neither the Controller nor the Deputy Registrar can correct the rent challans (Feb) 104A

—West Bengal Premises Tenancy (Amendment) Act (4 of 1968), S. 1 (2)—Date of commencement of the Act for purposes of S. 17B (1)—*See* Houses and Rents—West Bengal Premises Tenancy (Amendment) Act (4 of 1968), S. 17B (1) (Feb) 67

—Ss. 17-B (1), (2)—Date of commencement of the Act for purposes of S. 17B (1)—Date is March 26, 1968 (Feb) 67

Husband and Wife — Benami — *See* Estate Duty Act (1953), S. 6

Imports (Control) Order (1955), Cl. 8—Violation of terms of licence—Action by Government permissible—*See* Constitution of India, Art. 19 (1) (g) (Jan) 18C

Cl. 10—Violation of terms of licence — Action against by Government permissible — *See* Constitution of India, Art. 19 (1) (g) (Jan) 18C

Income-tax Act (11 of 1922), Pre.—Interpretation of—Fiscal statutes—Principles of construction—*See* Income-tax Act (1922), S. 42 (1) (Feb) 71

—S. 2 (2) — Dissolution of firm—Each partner at the time of dissolution liable to tax jointly and severally—*See* Income-tax Act (1922), S. 44 (Jan) 4B

—S. 2 (6A)—Dividend paid in form of shares of limited company—Valuation of shares cannot be made by adopting market rate, and the quantum of dividend cannot be determined at a rate higher than rate at which dividend was declared, especially when there is no attempt to defraud revenue (May) 236

—Ss. 2 (6C) and 4—“Client’s money—with solicitor not income—Solicitors hold money as trustee—English Common law principles to govern their relationship—(Trusts Act (1832), S. 83—Money left with solicitor for some work to be done by him—Solicitor holds the money as trustee)—(Contract Act (1872), S. 171—Money of client with solicitor—Solicitor has lien over it for his costs)—(Words and Phrases—“Client’s money”—Expression means the same thing as in England) (May) 211

—S. 4—Client’s money with solicitor not

Income-tax Act (1922) (contd.)

income—Solicitors held money as trustee—*See* Income-tax Act (1922), S. 2 (6) (c) (May) 211

—S. 10 (2) (vi) — Income-tax Rules (1922), R. 8, Prov. 2 (Note under Item III)—Depreciation—Seasonal factories working triple shifts—Provision of extra shift depreciation is not applicable to seasonal factories (Feb) 92A

—S. 10 (2) (xv) — Capital expenditure should bring enduring benefit — Contribution for building road—Contributions given by Sugar Mills and cane growers—Road built would be an enduring benefit to the assessee Mill—Contribution by assessee Mill held capital expenditure and not deductible under S. 10 (2) (xv) (Feb) 92B

—S. 10(2) (xv)—Enduring benefit—Capital expenditure creating new asset of enduring benefit — In each case new asset would be different—All relevant factors must be considered to determine nature of “enduring benefit” in each case (Feb) 92C

—S. 10 (2) (xv)—For the purpose of the business—Expenses incurred for conducting proceedings before Income-tax Authorities — Expenses are incurred for saving, preserving or protecting portion of income arising out of assessee’s business enabling assessee to make its legitimate profits and they are, therefore, laid out wholly and exclusively for assessee’s business—It is admissible deduction under S. 10 (2) (xv) (Apr) 171

—S. 23—Unregistered firm — Dissolution — Assessment of tax — Each ex-partner is an assessee—*See* Income-tax Act (1922), S. 30 (Jan) 4D

—S. 23 (5) — Assessment of unregistered firms — Second proviso to S. 30 not applicable — *See* Income-tax Act (1922), S. 30, Proviso 2 (Jan) 4A

—Ss. 26, 44 (prior to amendment in 1958) — Constitution of firm, change in — Five persons A1 to A5 constituting firm doing transport business — A1 to A4 selling their share to B1 to B4—On same day A5 selling his share to B1 to B4 by separate deed — B1 to B4 continuing transport business for some time—In both transactions only assets transferred without any mention of liability — Held that the transfer was of business as a whole that the firm was only reconstituted and that there was only change in ownership of firm and no discontinuance of business — Assessment of firm for period when A1 to A5 were partners taken up after B1 to B4 had become partners — Held A1 to A5

Income-tax Act (1922) (contd.)

were not liable to assessment under S. 44 as it stood prior to its amendment in 1958

(Jan) 4E

—Ss. 30, Proviso 2, 23 (5)—Second proviso not applicable to assessment of unregistered firms — Where second proviso applies explained

(Jan) 4A

—Ss. 30, 23 — Res judicata — Estoppel — Appeal—Unregistered firm — Dissolution—Assessment of tax — Each ex partner is an assessee — Decision, in appeal filed by one will not be binding as “res judicata” or “estoppel” on others

(Jan) 4D

—Ss. 30 (1), 30 (2) — Income-tax Rules (1922), R. 21—Appeal, right of—Right arises only after notice of demand is served—Subs. (2) provides limitation — Dissolved unregistered firm — Demand notice served on each ex-partner—Each ex-partner gets right of appeal

(Jan) 4C

—S. 34 — Proceedings in which notice under S. 34 issued in a pending proceeding — See Income-tax Act (1961), S. 297 (2) (d) (i)

(Sep) 464

—S. 42 (1)—“Money in cash or in kind” — “Money in kind” does not mean any and every article into which the money had been converted — Succession Act (1925), S. 74—Will — Construction — Principles of construction of fiscal statutes

(Feb) 71

—Ss. 44, 2 (2) — Firm, dissolution of — Each partner at the time of dissolution liable to tax jointly and severally — Each partner becomes an assessee under S. 2 (2) (Jan) 4B

—S. 44 (prior to amendment in 1958) — Constitution of firm, change in — Assessment of firm for period when former partners were there taken up after reconstitution of firm — Held former partners were not liable to be assessed under S. 44 prior to amendment — See Income-tax Act (1922), S. 26 (Jan) 4E

—S. 44—A dissolved firm is liable to be assessed

(Jan) 4F

Income-tax Act (43 of 1961), S. 132 (1) (a) and (b)—Scope and object—Provisions of cls. (a) and (b) — Difference between — Warrant of authorisation need not specify documents — Commissioner need not make search himself

(Sep) 431A

—S. 132 (1)—“Reason to believe” — Meaning of — Reason must exist — Court will not go into adequacy of reasons — Court has jurisdiction to strike down proceeding initiated by Commissioner

(Sep) 431B

—S. 132 (1)—Search and seizure—Reasons for — Reasons need not be communicated to assessee

(Sep) 431C

—S. 132 (1)—Search — Whether excessive — Matter depends upon facts of each case

(Sep) 431D

Income-tax Act (1961) (contd.)

—S. 132 (1) (c) (v) — Scope — Search has to be carried out in accordance with provisions of S. 103 of Criminal P. C. — Irregularity in Panchanama does not vitiate search

(Sep) 431E

—S. 297 (2) (d) (i) — Constitutional validity — Constitution of India, Art. 14— 1961 Act is not retrospective — Word ‘issued’ includes ‘service’ of notice under S. 34 of 1922 Act — Proceedings in which notice under S. 34 was issued were “pending proceedings”—Classification of assessees against whom proceedings were pending, into separate class does not violate Art. 14 — Provisions of 1922 Act are not more onerous and discriminatory

(Sep) 464

Income-tax Rules (1922), R. 8 Proviso 2—Provision as to depreciation for extra-shift — Not applicable to seasonal factories—See Income-tax Act (1922), S. 10 (2) (vi) (Feb) 92A

—R. 21—Appeal, right of — Arises only after notice of demand is served—See Income-tax Act (1922), S. 30 (1)

(Jan) 4C

—R. 112—Powers of seizure under S. 132, Income-tax Act (1961) — How to be used — See Income-tax Act (1961), S. 132 (1) (a)

(Sep) 431A

—Form 45 — Two alternative forms, how to be used — See Income-tax Act (1961), S. 132 (1) (a)

(Sep) 431A

Indian Administrative Service (Cadre) Rules, (1954)

See under Civil Services.

Industrial Disputes Act (14 of 1947), S. 18 (3) (2) — Settlement arrived at during conciliation proceedings — In order that the settlement should be binding on all workmen, they must be shown to be employed in the same “establishment” or “part of the same establishment” — This determination is a question of fact — High Court would not interfere with the order of Tribunal directing parties to adduce evidence on this issue

(Nov) 542

—S. 36—Association of Government employees—Recognised under Rules — Cannot file writ petition on behalf of its members — See Constitution of India, Art. 226

(Mar) 149A

Interpretation of Statutes—Fiscal statutes—Principles of construction — See Income-tax Act (1922), S. 42 (1)

(Feb) 71

—Liberal construction—See Partition Act (1893), S. 4

(Feb) 88A

Land Acquisition Act (1 of 1894), S. 18 — Collector acting under the section satisfies test of tribunal for purposes of Art. 227 of the Constitution — See Constitution of India, Art. 227

(May) 221A

Land Acquisition Act (contd.)

—S. 18—Applications stating that applicants were prepared to accept award amounts under protest and praying for payments accordingly — Payments made and receipts were given on back of above applications without mentioning words “under protest” — Receipts must be related to applications themselves and must be linked with same and it could not be held to be receipts without protest so as to disentitle applicants to apply for references under S. 18

(May) 221B
—Ss. 18, 20 and 21 — Joint award challenged by petition in reference under S. 18 — Serial number of award specified in petition — One of awardees, however, omitted to be named in it — Such awardee yet entering appearance and asking for time but not filing objection—Omission noticed — Application made to include such awardee rejected—Rejection wrong, because inclusion does not enlarge the reference under S. 20 nor violates S. 21 (Sep) 420

—S. 20—Joint award — Reference under S. 18, Land Acquisition Act (1894) omitting name of one awardee—Inclusion of his name — No enlargement of reference — His addition is valid — See Land Acquisition Act (1894), S. 18 (Sep) 420

—S. 21 — Joint award — Reference under S. 18, Land Acquisition Act (1894) omitting name of one awardee — Inclusion of his name — Does not violate S. 21 — See Land Acquisition Act (1894), S. 18 (Sep) 420

Legal Remembrancer's Administrative Manual (West Bengal), Chap. II, Part VI, Para. 9 (i) and (ii) (as amended) and App. 'E' Engaging lawyer for State—Lawyer if public prosecutor—Duty of Court pointed out — See Criminal P. C. (1898), S. 492 (2) (July) 321A

Letters Patent (Cal), Cl. 15 — Order made in winding up in order to be appealable under S. 483, Companies Act, need not satisfy test of “judgment” — See Companies Act (1956), S. 483 (July) 363A

—(Cal), Cl. 36 — Reference under, to third judge on a difference of opinion between two judges of High Court — Whether third judge can differ from referring bench on a point on which both judges had agreed (Quaere) (April) 180F

Limitation Act (9 of 1908), S. 20 and Art. 183 —“Payment” — Payment in pursuance of order of Court saves limitation under Art. 183 — Distinction between Art. 183 and S. 20 stated. Observations in (1912) 14 Ind Cas 335 (Lah) held obiter and not follo

(Aug) 390A
—S. 20, Art. 183 — Payment by one of joint judgment-debtors saves limitation

Limitation Act (1908) (contd.)

against other also. AIR 1939 All 230, Diss. (Contract Act (1872), S. 43) (Aug) 390B

—S. 20, Art. 183 — Application of, after coming into force of new Act — (Limitation Act (1963), Ss. 30 to 32 and Art. 136) (Aug) 390C

—Arts. 56 and 120 — Boiler along with road-roller sent for repairs — Work cannot be deemed to have been done until repairs are tested by boiler inspector and accepted — Boiler not tested—Art. 56 held did not apply for suit to recover price for such work — Where, however, it was because of the defendant District Board that the boiler inspector could not inspect it plaintiff was entitled to payment for work done by him — There being no specific provision in Limitation Act for such matters, case would be governed by Art. 120 (Dec) 564B

—Art. 120 — Boiler along with road-roller sent for repairs — Failure to test repairs because of defendant — Art. 120 applies — See Limitation Act (1908), Art. 56 (Dec) 564B

—Art. 183—Distinction between S. 20 and Art. 183—See Limitation Act (1908), S. 20 (Aug) 390A

—Art. 183—Payment by one of joint judgment-debtors, saves limitation for all — AIR 1939 All 230, Dissent — See Limitation Act (1908), S. 20 (Aug) 390B

—Art. 183—Period extended under Art. 183 — Execution valid even after repeal of Limitation Act (1908)—See Limitation Act (1908), S. 20 (Aug) 390C

Limitation Act (36 of 1963), S. 5 — Applicability to applications under S. 30, Arbitration Act (1940)—See Arbitration Act (1940), S. 17 (Aug) 381B

—Ss. 5 and 17 (1) (c) and Art. 123 — Ex parte decree — Absence explained as due to mistake in entry in lawyer's diary about hearing date — More than 15 days after discovery of mistake but within 30 days applications under O. 9, R. 13, Civil P. C. and S. 5 made — Delay of period after such discovery not explained — Refusal to condone delay correct—Section 17 (1) (c) and Art. 123 apply—Application under O. 9, R. 13, Civil P. C. hence not barred (Sep) 418

—S. 17 (1) (c)—Basis of application under O. 9, R. 13 was mistake of lawyer — Relief asked from consequences of mistake — S. 17 (1) (c) applies and Art. 123 governs case—See Limitation Act (1963), S. 5 (Sep) 418

—Ss. 30 to 32 — Period extended under Art. 183 of Limitation Act (1908) — Repeal of 1908, Limitation Act thereafter by 1963 Act—Language of Ss. 30 to 32 and Art. 136 of 1963 Act, create doubt if the repeal would

Limitation Act (1963) (contd.)

save limitation — *See* Limitation Act (1908), S. 20 (Aug) 390C

— *Art. 119 (b)* — Period commences from date of service of notice under S. 14, Arbitration Act (1940) — *See* Arbitration Act (1940), S. 17 (Aug) 381B

— *Art. 123* — Basis of application under O. 9, R. 13 was mistake of lawyer — Relief asked was from consequences of mistake — S. 17 (1) (c) applies and Art. 123 governs case — *See* Limitation Act (1963), S. 5 (Sep) 418

— *Art. 136* — Period extended under Art. 183 of Limitation Act (1908) — Repeal of 1908 Limitation Act thereafter by 1963 Act — Language of Ss. 30 to 32 and Art. 136 of 1963 Act, create doubt if the repeal would save limitation — *See* Limitation Act (1908), S. 20 (Aug) 390C

Lunacy Act (4 of 1912), S. 3 (5) — Lunatic means person of unsound mind — Various degrees of lunacy not contemplated by the Hindu Marriage Act — *See* Hindu Marriage Act (1955), S. 5 (ii) (June) 304A

Medico Legal Jurisprudence — *See* Evidence Act (1872), S. 45 (July)

Mines and Minerals (Regulations and Development) Act (67 of 1957), S. 3 (e) — Rules framed under S. 15 (1) — West Bengal Minor Minerals Rules (1959), R. 17 (1) (i) and Schedule I — Royalty for digging up ordinary earth for brick making — Payment of — Entry for, under Schedule I is ultra vires S. 15 (1) and R. 17 (1) (i) — Minor minerals — Meaning of — Ordinary earth and ordinary clay — Distinction between (June) 281

Motor Vehicles Act (4 of 1939), Ss. 11-A and 110-C — Motor Vehicles Rules, R. 238 — Claim before Tribunal — Cause of action surviving to heirs — Substitution to be allowed under inherent powers of Tribunal under S. 110-C — (Civil P. C. (1908), S. 20 and O. 22) (Aug) 394C

— *S. 31 (1)* — Person holding permanent stage carriage permit allowing bus being operated by another person — Cancellation of permit — In absence of condition under S. 59 (3) and contingency under S. 60 (1) (c) cancellation is erroneous — *See* Motor Vehicles Act (1939), S. 60 (1) (a) (Dec) 607

— *S. 47* — Recognised Association of Government employees — Cannot apply under Art. 226 on behalf of its members — *See* Constitution of India, Art. 226 (Mar) 149A

— *S. 59 (3)* — Person holding permanent stage carriage permit allowing bus being operated by another person — Cancellation of permit — In absence of condition under S. 59 (3) and contingency under S. 60 (1) (c)

Motor Vehicles Act (contd.)

cancellation is erroneous — *See* Motor Vehicles Act (1939), S. 60 (1) (a) (Dec) 607

— *Ss. 60 (1) (a), 31 (1), 59 (3)* — Cancellation of permit — Breach of rights and privileges does not warrant cancellation — Person holding permanent stage carriage permit allowing bus being operated by another person — Cancellation of permit on ground of breach of condition of S. 60 (1) (a) — In absence of condition under S. 59 (3) and contingency under S. 60 (1) (c), cancellation held to be erroneous (Dec) 607

— *S. 75* — Shifting of existing Bus-stand — Petitioners submitting to jurisdiction of District Magistrate — No writ under Art. 226, Constitution of India lies to change order — *See* Constitution of India, Art. 226 (Sep) 458A

— *S. 76* — Shifting of existing Bus stand — Petitioner submitting to jurisdiction of District Magistrate — No writ under Art. 226, Constitution of India lies to change order — *See* Constitution of India, Art. 226 (Sep) 458A

— *S. 110-A* — Application for compensation — Death of applicant — Cause survives to heirs — *See* Indian Succession Act (1925), S. 306 (Aug) 394A

— *S. 110-A (a), (b) and (c)* — Claims under Cls. (a) and (b) to be treated as being independent — Cause of action surviving to the heirs — Heirs to be substituted notwithstanding the provisions — (Civil P. C. (1908), S. 20 and O. 22) (Aug) 394B

— *S. 110-C* — Cause of action surviving to heirs — Tribunal under S. 110-C can substitute heirs in place of deceased — *See* Motor Vehicles Act (1939), S. 11-A (Aug) 394C

Motor Vehicles Rules, R. 238 — Applicability of Civil P. C. — *See* Motor Vehicles Act (1939), S. 11A (Aug) 394C

Official Secrets Act (19 of 1923), Ss. 3, 13 and 14 — Prosecution of accused under Official Secrets Act — Accused cannot claim copies of documents referred to in S. 173 of Criminal P. C. as of right (Nov) 535

— *S. 13* — Prosecution under the Act — Special procedure of complaint provided in Act — Accused cannot claim copies of documents referred to in S. 173, Criminal P. C. as of right — *See* Official Secrets Act (1923), S. 3 (Nov) 535

— *S. 14* — Prosecution under the Act — Special procedure of complaint provided in Act — Accused cannot claim copies of documents referred to in S. 173 of Code as of right — *See* Official Secrets Act (1923), S. 3 (Nov) 535

PANCHAYATS

—**West Bengal Panchayat Act (1 of 1957)**, S. 27 — Anchal panchayat office bearers — Election of — Proper course to challenge is only under R. 30, West Bengal Panchayat Rules (1958) — *See* Constitution of India, Art. 226 (Aug) 386A

—**West Bengal Panchayat Rules (1958)**, R. 30 — Election to Panchayat — Normally challenge should be under R. 30 — *See* Representation of the People Act (1950), (before amendment by Act 60 of 1961), S. 16 (Aug) 386E

Partition Act (4 of 1893), Ss. 2 and 6 — Partition suit — Power of Court to order sale — Sale has to be by public auction — Sale to co-sharers alone not warranted — Order of Datta J., D/- 15.6.1966 (Cal), **Reversed**, (1950) 86 Cal L J 144 and (1952) 90 Cal L J 147, Overruled (Feb) 59A

—S. 2 — Power of Court to direct sale — Conditions essential (Feb) 59B

—S. 4 — Scope — Section should be liberally construed — Widely in favour of family members and strictly against stranger purchaser — Section 4 applies not only to suit by stranger purchaser but also to suit against him — Civil P. C. (1908), Pre.—(Interpretation of Statutes) (Feb) 88A

—S. 4 — Dwelling house — Question whether disputed land ceased to be so — Disappearance of structures thereon — Proof, not conclusive — Non-consideration of question by Courts below — Case remanded in second appeal — AIR 1959 Orissa 173, Diss. from — (Civil P. C. (1908), O. 41, R. 25) (Feb) 88B

—S. 6 — Partition suit — Power of Court to order sale — *See* Partition Act (1893), S. 2 (Feb) 59A

Penal Code (45 of 1860), Ss. 34, 149 — Common object and common intention are different — However both deal with groups of persons who share one offence — Charge under S. 149 is no impediment to conviction under S. 34 (Jan) 28C

—S. 34 — Acquittal on charge under S. 302/34, I. P. C. — No bar to conviction under S. 304/34, I. P. C. by Appellate Court — *See* Criminal P. C. (1898), S. 423 (Jan) 28D

—S. 34 — Common intention and participation in crime is necessary — Distinction between S. 34 and S. 120B, Penal Code explained — *See* Criminal P. C. (1898), S. 233 (Oct) 481D

—S. 53 — Punishment — Quantum of punishment should not exceed the interests of justice (Mar) 132C

Penal Code (contd.)

—S. 97 — Right of private defence — When extends to causing death explained — *See* Penal Code (1860), S. 100 (Jan) 28A

—S. 99 — Right of private defence — Extent — *See* Penal Code (1860), S. 100 (Jan) 28A

—Ss. 100, 97, 99 — Private defence, right of — Persons in possession of land have a right to defend the land from those who obstruct ploughing it — They have a right to defend themselves when they attempt to remove obstruction — When such right extends to causing death explained (Jan) 28A

—S. 120-B — Distinction between S. 120B and S. 34, Penal Code explained — *See* Criminal P. C. (1898), S. 233 (Oct) 481D

—Ss. 147, 149 — Unlawful assembly — Accused owning and possessing land wanting to plough it — Other party obstructing — Melee ensuing — Accused who had a right to defend their land and persons cannot be said to form unlawful assembly and S. 149 can have no application for any other offence committed by them (Jan) 28B

—S. 149 — Unlawful assembly — When can be said to have been formed — *See* Penal Code (1860), S. 147 (Jan) 28B

—S. 149 — Charge under S. 149 is no bar to conviction under S. 34 — *See* Penal Code (1860), S. 34 (Jan) 28C

—S. 228 — Scandalizing the Court — *See* Contempt of Courts Act (1952), S. 2 (Jan) 1A (SB)

—S. 302 — Acquittal on charge under S. 302/34, Penal Code — In appeal against conviction under other charges, Appellate Court cannot convict the accused under S. 302/34 — *See* Criminal P. C. (1898), S. 423 (Jan) 28D

—S. 304 — Earlier acquittal under S. 302/34, Penal Code — Conviction under S. 304/34, Penal Code by Appellate Court not hit by acquittal — *See* Criminal P. C. (1898), S. 423 (Jan) 28D

—S. 306 — Suicide — Abetment of — Threat to commit suicide is coercion within S. 15 of Contract Act — *See* Special Marriage Act (1954), S. 25 (iii) (June) 293A

—S. 307 — Threat to commit suicide is coercion within S. 15 of Contract Act — *See* Special Marriage Act (1954), S. 25 (iii) (June) 293A

—S. 309 — Threat to commit suicide — Is coercion within S. 15 of Contract Act — *See* Special Marriage Act (1954), S. 25 (iii) (June) 293A

—S. 379 — Offence under the section — Existing partnership between complainant and accused will not rule out commission of offences under Ss. 379 and 420 — *See* Penal Code (1860), S. 420 (May) 232A

—S. 379 — Mens rea — Necessity — Existing partnership between accused and com-

Penal Code (contd.)

plainant — Effect — See Penal Code (1860), S. 420 (May) 232B

— Ss. 420 and 379 — Registered partnership existing between complainant and accused — Yet offences under Ss. 420 or 379 not ruled out (May) 232A

— Ss. 420 and 379 — Mens rea — Accused owner of taxi — Accused also having requisite token, insurance certificate, blue book and R. T. A. permit — Registered partnership for running taxi existing between complainant and accused — Evidence not showing criminal mind on the part of accused — Proceedings against accused under S. 420 not maintainable (May) 232B

— S. 420 — All deceptions do not amount to cheating — Person deceived must be injured in some way (Oct) 481E

— S. 494 — Applicability — It must be shown that subsequent marriage was solemnised upon due performance of essential ceremonies whereupon only marriage becomes valid marriage (Feb) 55A

— S. 494 — Essential ingredient to prove charge under section — See Hindu Marriage Act (1955), S. 17 (Feb) 55B

Prevention of Food Adulteration Act (37 of 1954), S. 7 (i) — Sample of ghee taken from tins taken out of cold storage — Sample containing more moisture and oleic acid than standard prescribed in Rules — Such increases within possible ranges of variation under such circumstances — Conviction for adulteration illegal — See Prevention of Food Adulteration Act (1954), S. 16 (a) (i) (May) 247B

— Ss. 16 (a) (i) and 7 (i) — Sample taken from sealed tin of ghee brought out of cold storage — Sample containing more moisture and oleic acid than standard prescribed in Rules — Such increases within possible ranges of variation under such circumstances — Conviction for adulteration illegal — (Prevention of Food Adulteration Rules (1955), Appendix I, A. 11.14) (May) 247B

— S. 17 (1) Proviso — Accused in-charge of office of company as person in charge of and responsible to company for conduct of its business — Commodity manufactured by company at a place different from that of office — Accused not concerned with manufacture — Conviction of accused for adulteration of commodity is not justifiable (May) 247A

Prevention of Food Adulteration Rules (1955), Appendix I-A 11, 14 — Sample of ghee taken from tins taken out of cold storage — Sample containing more moisture and oleic acid than standard prescribed in Rules — Such increase within possible ranges of variation under such circumstances — Conviction for adul-

Prevention of Food Adulteration Rules (contd.) — teration illegal — See Prevention of Food Adulteration Act (1954), S. 16 (a) (i) (May) 247

Preventive Detention Act (4 of 1950)
See under Public Safety.

PUBLIC SAFETY

— **Preventive Detention Act (4 of 1950), S. 3** — Commissioner of Police, Calcutta has jurisdiction to make detention order in respect of suburban areas also (Mar) 157B-

— S. 3 (1) (a) — Satisfaction of detaining authority — Bona fides of the order (Sep) 422B-

— S. 3 (2) — Detenu set free under orders of Court not on considerations of merits but on technical defect — Subsequent order of detention on same grounds is competent (Mar) 157A-

— S. 3-A — Detention order — Service in jail — Rule as to validity — Order for bail in existence — Service in jail not illegal (Sep) 422A

— Ss. 11-A, 13 and 14 — Detention order expires on expiry of 12 months from date of detention — Interim bail by Court or release on parole by Government cannot operate as suspension of detention order (May) 234-

— S. 13 — Detention order — Expiry of — Expires on expiry of 12 months from date of detention — See Public Safety — Preventive Detention Act (1950), S. 11A (May) 234

— S. 14 — Detention order expires on expiry of 12 months from date of detention — Release on parole by Government cannot operate as suspension of detention order — See Public Safety — Preventive Detention Act (1950), S. 11A (May) 234

— **W. B. Criminal Law Amendment (Special Courts) Act (21 of 1949), S. 5 (1) (prior to amendment in 1960)** — Prosecution of members of Railway Protection Police under Ss. 120-B/420 and under Ss. 467/471 read with S. 34, Penal Code — Complaint filed by Investigating Officer will by itself, be sufficient for Judge for taking cognizance — It matters little whether or not he has taken into consideration any additional material or if taken into consideration what that material is (Oct) 481A

— S. 9 (2) — Prosecution of members of Railway Protection Police under Ss. 120-B/420 and under Ss. 467/471 read with S. 34, Penal Code — Evidence recorded quite at length — Demeanour of witnesses not likely to help much in appreciation of evidence — Successor Judge does not act improperly by

Public Safety.—W. B. Criminal Law Amendment (Special Courts) Act (contd.)
 not exercising his discretion to call witnesses — Accused persons are not prejudiced (Oct) 481C

Railway Establishment Code
See under Civil Services.

Railway Property (Unlawful Possession) Act (29 of 1966), Ss. 3, 5 and 8 — Institution of case for offences mentioned in the Act is on complaint — Section 173 (4), Criminal P. C. need not be complied with (Dec) 594A

—S. 5 — Institution of case for offence under is on complaint — S. 173 (4), Criminal P. C. need not be complied with—*See* Railway Property (Unlawful Possession) Act (29 of 1966), S. 3 (Dec) 594A

—S. 8 — Institution of case for offence under is on complaint — Compliance with S. 173 (4), Criminal P. C. not necessary—*See* Railway Property (Unlawful Possession) Act (29 of 1966), S. 3 (Dec) 594A

Railways Act (9 of 1890), Ss. 78-B and 140 (as amended in 1961) — Service of notice of claims for refund on Refunds Officer is legal (Jan) 39

—S. 140 (as amended in 1961) — Service of notice of claims for refund on Refunds Officer is legal — *See* Railways Act (1890) (as amended in 1961), S. 78B (Jan) 39

Registration Act (16 of 1908), S. 17 — Equitable mortgage — Mortgagor depositing title deeds with mortgagee — Subsequent agreement forming integral part of transaction — Agreement is instrument creating charge — Needs registration — *See* Transfer of Property Act (1882), S. 58 (Dec) 578C

Registration of Electors' Rules (1960), R. 13 (2) (b) — Objection to nomination on ground of non-residence — *See* Representation of the People Act (1951), S. 36 (June) 267F

Representation of the People Act (43 of 1950), S. 15 — Non-residence of voter is not infraction of 1951 Act — *See* Representation of the People Act (1951), S. 100 (1) (d) (iv) (June) 267D

—S. 16 — Scope and applicability — Election petition under 1951 Act — *See* Representation of the People Act (1951) (after amendment in 1956), S. 100 (1) (d) (iv) (June) 267B

—S. 16 — Non-residence of voter is not an infraction of 1951 Act — *See* Representation of the People Act (1951), S. 100 (1) (d) (iv) (June) 267D

—Ss. 16, 25 (b) — Petitioner challenging Panchayat election on ground that one voter

Representation of the People Act (1950) (contd.)
 was Pakistani national — Contentions of non-applicant that petitioner had not proved that the results of the election were materially affected and that he had not taken steps to correct the voters' list, are not without force (Obiter) (Aug) 386E

—S. 19 — "Ordinarily resident" — Meaning of — Person, generally speaking must actually reside in a constituency to become 'ordinarily resident' of that constituency (June) 267A

—S. 19 — Non-residence of voter is not an infraction of 1951 Act — *See* Representation of the People Act (1951), S. 100 (1) (d) (iv) (June) 267D

—S. 20 — Scope and applicability — Election petition under 1951 Act — *See* Representation of the People Act (1951) (after amendment in 1956), S. 100 (1) (d) (iv) (Jun) 267B

—S. 21 — Scope and applicability — Election petition under 1951 Act — *See* Representation of the People Act (1951) (after amendment in 1956), S. 100 (1) (d) (iv) (Jun) 267B

—S. 22 — Scope and applicability — Election petition under 1951 Act — *See* Representation of the People Act (1950) (after amendment in 1956), S. 100 (1) (d) (iv) (Jun) 267B

—S. 23 — Scope and applicability — Election petition under 1951 Act — *See* Representation of the People Act (1951) (after amendment in 1956), S. 100 (1) (d) (iv) (Jun) 267B

—S. 24 — Election petition under 1951 Act — Applicability — *See* Representation of the People Act (1951) (after amendment in 1956), S. 100 (1) (d) (iv) (Jun) 267B

—S. 25 (b) — Election challenged on ground that one voter was Pakistani — Agreement that petitioner had not taken steps to remove the name from voters' list bears weight — *See* Representation of the People Act (1950) (before amendment by Act 60 of 1961), S. 16 (Aug) 386E

—S. 30 — Scope and applicability — Violation or non observance of provisions of 1950 Act or Rules thereunder — Election Court functioning under S. 100 (1) (d) (iv) of 1951 Act not entitled to look into it — *See* Representation of the People Act (1951) (after amendment in 1956), S. 100 (1) (d) (iv) (Jun) 267B

—S. 30 — Applicability — Expression "Civil Court" — Meaning of — S. 80A of 1951 Act only confers additional jurisdiction on High Court — It is 'Civil Court' (Jun) 267E

Representation of the People Act (43 of 1951), S. 2 (e) — "Is entered in electoral roll" — Interpretation — *See* Representation of the People Act (1951), S. 100 (1) (d) (iv) (Jun) 267D

—S. 5 (c) — Non-residence of voter is not an infraction of 1951 Act — *See* Representation of the People Act (1951), S. 100 (1) (d) (iv) (Jun) 267D

Representation of the People Act (contd.)

—S. 36—Scope—Objection to nomination on ground of candidate not being 'ordinary resident'—There could be no right to raise such objection—Held, there could be no question of waiving the irregularity

(Jun) 267F

—S. 80A (after amendment of 1966)—Section only confers additional jurisdiction on High Court—See Representation of the People Act (1950), S. 33

(Jun) 267E

—S. 100 (1) (d) (iv) (after amendment, in 1956)—Scope and applicability—Violation or non-observance of provisions of 1950 Act or Rules thereunder—Election Court not entitled to look into it

(Jun) 267B

—S. 100 (1) (d) (iv)—Qualification for being elected—Residence is not one of them prescribed under Art. 326 of the Constitution—It cannot therefore be tried by Court trying election petition under the section—See Constitution of India, Art. 326

(Jun) 267C

—Ss. 100 (1) (d) (iv), 100 (1) (a), 2 (e) and 5 (c)—Scope—Non-residence of voter is not infraction of 1951 Act—Infraction does not come within scope of S. 100 (1) (d) (iv)

(Jun) 267D

Sale of Goods Act (3 of 1930), S. 2 (9)—Commission agent is "mercantile agent"—See W. B. City Civil Courts Act (21 of 1953), S. 5 (4)

(Oct) 472

—S. 5—Contract for sale—Purchaser contracting with company for purchase of goods—Company independently contracting with another firm for supply—No contract between purchaser and firm—Company acts as middleman and not as agent—See Contract Act (1872), S. 182

(Oct) 496A

—S. 5—Contract for sale—Representative of purchaser inspecting goods offered for sale—Representative reporting to his principal—Such report admissible under S. 32, Evidence Act (1872)—See Evidence Act (1872), S. 32

(Oct) 496B

Special Marriage Act (43 of 1954), S. 5—Question of notice under S. 5—Matter cannot be raised once certificate is issued—Certificate of marriage is conclusive proof—See Special Marriage Act (1954), S. 13 (2)

(Jun) 293B

—Ss. 13 (2) and 5—Certificate of marriage is conclusive proof—Question of notice under S. 5—Matter cannot be raised once certificate is issued

(Jun) 293B

—S. 25 (iii)—Contract Act (1872), S. 15—Coercion—There must be a threat to commit an act forbidden by Penal Code—Threat to murder is coercion—Threat to

Special Marriage Act (contd.)

commit suicide is also coercion—Committing suicide though incapable of being punished is yet an act forbidden by Penal Code as attempt to commit suicide is punishable under S. 307 and abetment of suicide is punishable under S. 306, Penal Code

(Jun) 293A

—S. 25 (iii)—Consent—Consent should be real and not obtained by fraud or coercion—Where wife knew the language of the proceedings by which marriage was solemnised and no case of fraud or coercion was proved, marriage held was lawful

(Jun) 293D

Succession Act (39 of 1925), S. 74—Will—Construction—Principles of construction of Fiscal statutes—See Income Tax Act (1922), S. 42 (1)

(Feb) 71

—S. 306—"Actio personalis moritur cum persona"—Maxim applicable in India only to the extent it is recognised by S. 306 and principles underlying it—Injuries causing death—Action for—Cause of action survives to heirs—Civil Procedure Code (1908), Pre.—Maxims—"Actio personalis moritur cum persona"—Applicability in India—(Motor Vehicles Act (1939), S. 110-A)

(Aug) 394A

Suppression of Immoral Traffic in Women and Girls Act (104 of 1956), Ss. 2 (i) and 13 (1)—"Police duties" and "dealing with offences"—Expressions of widest amplitude

(Sep) 451C

—Ss. 2 (a) (e), (f), 3 (1), 3 (2) (a) (b)—Conviction for acting as manager of brothel—Realisation of rent by accused from inmates of premises only proved—Evidence against accused only of pimps and prostitutes—Witnesses being in position of accomplices evidence of each cannot be said to be corroborated by the other—In absence of independent corroboration premises cannot be said to have been proved to be brothel—Conviction of accused under Ss. 3 and 7 is illegal

(Aug) 416

—S. 3 (1)—Charge of running brothel as manager—Evidence of pimps and prostitutes is not enough to bring some charge—See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 2 (a) (e), (f)

(Aug) 416

—S. 3 (2) (a), (b)—Evidence of pimps and prostitutes will not bring some charge—See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 2 (a) (e), (f)

(Aug) 416

—Ss. 13 and 14—Distinction

(Sep) 451J

—Ss. 13 (1), 13 (2) (a) and 13 (3) (a)—State Government's Notification appointing Assistant Commissioners of Police, as special

Suppression of Immoral Traffic in Women and Girls Act (*contd.*)

officers under Act—By another notification special officer authorised to take assistance of Subordinate Police Officers in investigation—Taking of such assistance held did not render investigation, bad — Proceedings, held, not vitiated (Sep) 451A

—S. 13 (1)—Police officers not specially appointed cannot investigate offence under Act, though cognizable (Sep) 451B

—S. 13 (1)—Words “Special Police Officer dealing with offences” are of wide amplitude — See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 2 (i) (Sep) 451C

—S. 14 — Distinction between S. 14 and S. 13—See Suppression of Immoral Traffic in Women and Girls Act (1956), S. 13 (Sep) 451J

—S. 15 — Search list — Preparation by Police Officer subordinate to Special Officer — Special Officer need not countersign it — (Criminal P. C. (1898), S. 103) (Sep) 451G.

—S. 15 (1) and (2) — Failure to record grounds of belief about commission of offence and failure to call woman of locality to witness the search — Search not rendered illegal (Sep) 451H

—S. 20 (3) — Clause ‘to remove herself from the place by such route or routes’ — Meaning—Magistrate should specify place where woman would go and by what route while directing her removal from place where she was residing (Nov) 544

TENANCY LAWS

—Calcutta Thika Tenancy Act (2 of 1949), S. 3 — Thika tenancy held by late karta of joint family in absolute severalty—Tenancy devolves by succession — Only heirs to be impleaded—See Civil P. C. (1908), O. 1, R. 13 (July) 360

—S. 4—Ejectment notice — Tenancy for manufacturing purpose—Six months’ notice under S. 106 of the Transfer of Property Act and not one month’s notice under S. 4 is to be given (Feb) 109A

S. 1—Setting aside of order for ejectment of tenant—Held the petition could be allowed only subject to tenant depositing arrears of rent—See Civil P. C. (1903), S. 115 (Feb) 109C

—West Bengal Estates Acquisition Act, 1953 (1 of 1954), Ss. 6 (1) (h) and (i), 27, 28, 29—Expression “directly worked by him” in S. 28 — Means directly worked by intermediary himself—Provisions of S. 28 are contrary to

Tenancy Laws—West Bengal Estates Acquisition Act (*contd.*)

provisions of S. 6 (1) (h) and (i) and would prevail over them (Dec) 565C

—S. 27—Provisions of S. 6 (1) (h) and (i) are subject to the provisions of S. 27—See Tenancy Laws—West Bengal Estates Acquisition Act, 1953 (1 of 1954), S. 6 (1) (h) and (i) (Dec) 565C

—S. 28—Expression “directly worked by him” — Means directly worked by intermediary himself—See Tenancy Laws—West Bengal Estates Acquisition Act, 1953 (1 of 1954), S. 6 (1) (h) and (i) (Dec) 565C

—S. 29—Mine worked by intermediary through lessee—Intermediary has no right to recover mine from lessee by virtue of S. 29 — See Tenancy Laws—West Bengal Estates Acquisition Act, 1953 (1 of 1954), S. 6 (1) (h) and (i) (Dec) 565C

Trade and Merchandise Marks Act (43 of 1958)

— “International Convention for the protection of Industrial property” revised in Lisbon in 1958, Art. 6—“Use” is use within India—See Trade & Merchandise Marks Act (1958), Preamble (Jan) 43C

—Preamble, Ss. 46, 1 (2), 2 (v) and “International Convention for the protection of Industrial property” revised in Lisbon in 1958, Art. 6—“Use” is use within India (Jan) 43C

—S. 1 (2)—“Use” is use within India—See Trade & Merchandise Marks Act (1958), Preamble (Jan) 43C

—S. 2 (v)—‘Use’ is use within India—See Trade & Merchandise Marks Act (1958), Preamble (Jan) 43C

—S. 12 (1)—Similarity of marks — Test for determining — On facts held that appellations of ‘Lion Brand’ chaffcutter blades and Ma Durga Brand’ were entirely distinct and separate (Feb) 80B

—Ss. 12 (1), 31, 32—Application for registration — Opponent cannot rely on mere circumstance of his prior mark on the register — Only presumption that follows from registration of mark is its *prima facie* evidentiary value about its validity and no other presumption is recognised (Feb) 80C

—S. 12 (1)—Evidence Act (1872), Ss. 13, 43 — Question whether applicant’s mark is identical or deceptively similar to trade mark of opponent — Opponent citing judgments in which parties, facts and trade marks were entirely different — Such judgments or their facts cannot be used against applicant (Feb) 80D

Trade and Merchandise Marks Act (contd.)

—S. 12 (3)—Scope and applicability — See Trade and Merchandise Marks Act (1958), S. 46 (3) (Jan) 43B

—Ss. 18, 19, 20, 21, 22—Trade Mark Rules —Rr. 37 to 43, 51 to 55—Nature of—Onus of proof (obiter) (Feb) 80F

—Ss. 18 (1), 45, 48 — Proprietor of a mark has to establish that the trade mark is used or proposed to be used by him — Exceptions to this section are those contained in S. 45 and S. 48 (July) 342C

—S. 19—Nature of onus of proof (obiter) —See Trade and Merchandise Marks Act (1958), S. 18 (Feb) 80F

—S. 20—Nature of onus of proof (obiter) —See Trade and Merchandise Marks Act (1958), S. 18 (Feb) 80F

—S. 21 — “Any person” — Need not be only a prior registered trade mark owner — Even customer, purchaser or member of public likely to use goods may object to registration on ground of possible deception or confusion (Feb) 80E

—S. 21—Nature of onus of proof (obiter) —See Trade and Merchandise Marks Act (1958), S. 18 (Feb) 80F

—S. 22—Nature of onus of proof (obiter) —See Trade and Merchandise Marks Act (1958), S. 18 (Feb) 80F

—S. 23—Reasonable diligence and expedition at every stage throughout process of registration is necessary (Feb) 80A

—S. 31—Prior registration of trade mark by opponent — Presumption therefrom—See Trade and Merchandise Marks Act (1958), S. 12 (1) (Feb) 80C

—S. 32—Prior registration of trade mark by opponent — Presumption therefrom—See Trade and Merchandise Marks Act (1958), S. 12 (1) (Feb) 80C

—S. 45 — Section provides exception to rule in S. 18 (1)—See Trade and Merchandise Marks Act (1958), S. 18 (1) (July) 342C

—S. 46—“Use” is use within India — See Trade and Merchandise Marks Act (1958), Preamble (Jan) 43C

—S. 46—Rectification — Question is not so much between the applicant and the respondent as between the public and the respondent — Court or the Registrar therefore, has full discretion in granting or refusing the relief (Jan) 43E

—Ss. 46, 56 (3) and 109 (6) — High Court has as much power as the Registrar in proceedings under S. 46 to impose appropriate limitations, conditions and directions (Jan) 43F

—S. 46 (1) — “Person aggrieved” — Company ‘A’ being in the trade with a trade

Trade and Merchandise Marks Act (contd.)

mark identical with the registered one of Company ‘B’ — ‘B’ threatening ‘A’ with legal consequences if the latter does not desist using the registered mark — ‘A’s’ application for registering the trade mark in its name being opposed by ‘B’ — ‘A’, held, a “person aggrieved” within the meaning of S. 46 (1)—‘A’ could therefore seek to cancel the trade mark registered in the name of ‘B’ (Jan) 43A

—S. 46 (1) (a) — “Trafficking in trade marks” — What is—English and Indian law —See Trade and Merchandise Marks Act (1958), S. 48 (July) 342D

—Ss. 46 (1) (e) and 46 (3)—Burden of proof (Jan) 43D

—Ss. 46 (3) and 12 (3) — Scope and applicability—“Special circumstances”, meaning (Jan) 43B

—S. 48 — Section provides exception to rule mentioned in S. 18 (1) — See Trade and Merchandise Marks Act (1958), S. 18 (1) (July) 342C

—Ss. 48 and 46 (1) (a)—Expression “trafficking in trade marks” — Scope — Bona fide intention to use must be of the person registering — Difference between English and Indian Law, stated (July) 342D

—Ss. 56 and 109 — Trade Marks Rules, R. 121—Limitation for filing appeal is three months — Application for rectification dismissed on 7-12-1964 — Order sent by post by registry on 22-12-1964 and received by appellant on 26-12-1964 — Certified copy applied for on 1-1-1965 and obtained on 21-1-1965—Appeal filed on 25-3-1965—Delay of 18 days condoned (July) 342A

—S. 56 (2)—Expression “any person aggrieved” has to be liberally construed — Expression includes persons who are in some way or other substantially interested in having the mark removed and also includes those who are substantially damaged or prejudiced if mark remains on the register (July) 342B

—S. 56 (3) — Power of High Court to impose appropriate limitations, conditions and directions—Is the same as that of Registrar in proceedings under S. 46 — See Trade and Merchandise Marks Act (1958), S. 46 (Jan) 43F

—S. 109 — Dismissal of application for rectification—Appeal—Limitation — Appeal delayed — Condonation — See Trade and Merchandise Marks Act (1958), S. 56 (July) 342A

—S. 109 (6) — Power of High Court to impose appropriate limitations conditions and directions—See Trade and Merchandise Marks Act (1958), S. 46 (Jan) 43F

Trade Mark Rules, Rr. 37 to 43—Nature of—Onus of proof (*obiter*)—See Trade and Merchandise Marks Act (1958), S. 18 (Feb) 80F
 —Rr. 51 to 55—Nature of—Onus of proof (*Obiter*)—See Trade and Merchandise Marks Act (1958), S. 18 (Feb) 80F

—R. 121 — Dismissal of application for rectification — Appeal — Limitation — Appeal delayed — Condonation—See Trade and Merchandise Marks Act (1958), S. 56 (July) 342A

Trade Unions Act (16 of 1926), S. 13 — Recognised Association of Government employees, cannot file a writ petition under Art. 226, on behalf of its members — See Constitution of India, Art. 226 (March) 149A

Transfer of Property Act (4 of 1882), S. 8 — Deed — Benami — What is — See Estate Duty Act (1953), S. 6 (March) 139A

—S. 41 — Deed — Benami — What is — See Estate Duty Act (1953), S. 6 (March) 139A

—S. 58 — Mortgage is within ambit of R. 94-A (1) of Defence of India Rules (1939) — See Defence of India Rules (1939), R. 94-A (1) (Dec) 578A

—S. 58 — Equitable mortgage—Registration—Mortgagor depositing title deeds with mortgagee—Subsequent agreement between mortgagor and mortgagee—Agreement forming integral part of transaction—Agreement is instrument creating charge—Needs registration — Time factor of making agreement is immaterial (Dec) 578C

—S. 58 — Mortgage valid—Mortgage not registered under S. 109, Companies Act (1913) — Mortgage will be void against liquidator and creditors — See Companies Act (1913), S. 109 (Dec) 578F

—S. 58 (f) — Mortgage by deposit of title deeds — Mortgage in contravention of R. 94-A (2) of Defence of India Rules (1939) — Transaction is illegal and mortgagee cannot recover money from mortgagor — See Defence of India Rules (1939), R. 94-A, Sub-Rules (2), (7) and (10) (Dec) 578D

—S. 100—Charge—Charge created under —Award is neither by "act of parties" nor by "operation of law"—O. 34, R. 14, Civil P. C., did not apply : A I R 1932 All 439, Dissented — See Civil P. C. (1908), O. 34, R. 14 (Aug) 406A

—S. 100 — Word charge in R. 94-A (1) of Defence of India Rules (1939) — Not to be construed in restricted sense as under S. 100 — See Defence of India Rules (1939), R. 94-A (1) (Dec) 578A

—S. 106 — Nature of tenancy depends on how the tenancy agreement itself describes

T. P. Act (contd.)

it—Intention of the tenant or even the actual user of the tenant after the taking out of the tenancy is not material (Jan) 12D

—S. 106—Notice—Period — Tenancy for manufacturing purpose—Six months' notice necessary — See Tenancy Laws — Calcutta Thika Tenancy Act (2 of 1949), S. 4 (Feb) 109A

—S. 106 — Ejectment notice—Service by registered post, under certificate of posting and in person — *Held*, on facts, all the three modes were bad (Feb) 109B

—Ss. 106 and 107 — Defendant occupying land for extracting sand under oral agreement for a certain period on payment of certain amount as rent annually — Execution of an agreement during continuance of the tenancy to the effect that defendant was inducted into land as tenant for first time under it—Occupation of defendant of land, admitted to be from before the agreement came into existence — *Held*, that what was created in favour of defendant was not a lease under S. 107 but only a monthly lease i.e., monthly tenancy under S. 106—Defendant could not be held to have been brought into occupation for the first time under subsequent agreement (Dec) 565B

—S. 107—Land occupied by defendant for extracting sand under oral agreement on payment of annual rent for certain period—Execution of agreement during continuance of tenancy to the effect that defendant was inducted into land as tenant for first time — *Held*, that it was not a lease under S. 107 but only monthly tenancy under S. 106 — See T. P. Act (1882), S. 106 (Dec) 565B

—S. 108 (1) — Deposit of rent with Rent Controller, without previous tender is not valid payment — See Houses and Rents — West Bengal Premises Tenancy Act (12 of 1956), S. 17 (Jan) 12A

—S. 122—Gift by a person to his counsel's wife — Validity — Proof of spontaneity eliminates proof of independent legal advice (Feb) 111

Trusts Act (2 of 1882), S. 88 — Applicability — Gift by a person to his counsel's wife — Validity — See T. P. Act (1882), S. 122 (Feb) 111

—S. 88 — Money left with solicitor for some work to be done by him — Solicitor holds the money as trustee—See Income-tax, Act (1922), S. 2 (6-C) (May) 214

—S. 89—Applicability—Gift by a person to his counsel's wife — Validity — See T. P. Act (1882), S. 122 (Feb) 111

Wealth Tax Act (27 of 1957), S. 7 (1), (2) (a) — Value of assets how to be determined

Wealth Tax Act (contd.)

— Shares of company — Break up value— Balance-sheet not providing for bad or doubtful debts—Deduction on possible non-realisation is not allowed (May) 249A

— Ss. 7 (2) (a) — Break-up value of shares of company—Determination of — Tax liability not provided for in balance-sheet cannot be claimed as deduction from value of shares (May) 249D

— S. 7 (2) (a) — Break-up value of shares of company—Determination of — Un-called liability on shares of certain companies held as investments—Not claimable as deduction from value of shares (May) 249E

— S. 7 (2) (a)—Break-up value of shares of Company—Determination of — Account of claims in suits pending against company — Cannot be claimed as deduction from value of shares (May) 249F

— S. 7 (2) (a) — Break-up value of shares of Company—Determination of—Amount of profits deemed to have been declared as dividend under S. 23A of Income-tax Act (1922) — Cannot be claimed as deduction from value of shares (May) 249G

— S. 7 (2) (a)—Break-up value of shares of Company—Determination of — Account of penal tax leviable under S. 23A of Income-tax Act (1922)—Not claimable as deduction from value of shares (May) 249H

— Ss. 24, 27—Question of validity of Act—Tribunal has no jurisdiction to decide it or to refer it to High Court—High Court cannot answer such question under S. 27 (May) 249C

— S. 27 — Tribunal has no power either to decide question of validity of Act or even to refer it to High Court — High Court cannot answer such question under S. 27 — See Wealth Tax Act (1957), S. 24 (May) 249C

West Bengal Board of Secondary Education Act (37 of 1963)

See under Education.

West Bengal Board of Secondary Education (Appointment of Secretary) Rules (1963)

See under Education.

W. B. City Civil Court Act (21 of 1953), S. 5 (4), First Sch., Cls. (iv) and (v), Item 4 — Person appointed as commission agent is mercantile agent within meaning of S. 2 (9) of Sale of Goods Act (1930)—Suit in respect of claim arising between mercantile agent as such vis-a-vis principal — Suit whether outside jurisdiction of City Civil Court (Oct) 472

— Sch. 1, Cls. (iv) and (v) Item 4 — Sale of good on commission when comes under "transactions of mercantile agents" — See

W. B. City Civil Court Act (contd.)

W. B. City Civil Court Act (21 of 1953), S. 5 (4) (Oct) 472

West Bengal Estates Acquisition Act (1 of 1954)

See under Tenancy Laws.

West Bengal Khadi and Village Industries Board Act (14 of 1959), S. 33 (2) and (3) — Transfer to a post not created by resolution — Board has neither an inherent power to do so nor can it claim it as incidental to power of appointment (Mar) 152A

W. B. Khadi and Village Industries Regulations (1966), R. 9 — Transfer to a post not created by resolution—Power of Board—See West Bengal Khadi and Village Industries Board Act (14 of 1959), S. 33 (2) (Mar) 152A

West Bengal Minor Minerals Rules (1959), R. 17 (1) (i) and Sch. I—Royalty for digging up ordinary earth for brick-making — Payment of — See Mines and Minerals (Regulations and Development) Act (1957), S. 3 (e) (June) 281

West Bengal Panchayat Act (1 of 1957)

See under Panchayats.

West Bengal Panchayat Rules

See under Panchayats.

West Bengal Premises Tenancy Act (12 of 1956)

See under Houses and Rents.

West Bengal Premises Tenancy (Amendment) Act (4 of 1968)

See under Houses and Rents.

West Bengal Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act (16 of 1951), S. 2 (2) — Competent authority under the Act—Not a Court within S. 195 (2), Criminal P. C. — See Criminal P. C. (1898), S. 195 (2) (April) 161A

W. B. Requisitioned Land (Continuance of Powers) Act (8 of 1951), S. 3 — Requisition under R. 75-A, Defence of India Rules — S. 3 does not enlarge scope of order of requisition—See Defence of India Rules (1939), R. 75-A (Sep) 446

West Bengal Rice and Paddy Control Order (1966), Para. 2 (c)—"Free period"—Exemption under — Application for, can be made before expiry of "free period"—See Defence of India Rules (1962), R. 125 (2) (Oct) 474A

West Bengal Rice and Paddy Control Order

(contd.)

- Para. 5 (c), Proviso* — “Free period” exemption under — Application for can be made any time before expiry of “free period” — *See* West Bengal Rice and Paddy Control Order (1966), *Para. 2 (c)* (Oct) 474A
- Para. 5 (c) Proviso* — *Para. 5 (c)* read with its *Proviso* is unconstitutional — *See* Constitution of India, *Art. 19 (1) (f)* (Oct) 474D

Words and Phrases — “Cadre” — Does not mean post but strength of establishment — *See* Constitution of India, *Art. 311*

(Nov) 525B

— “Client’s money” — Expression mean the same thing as in England — *See* Income-tax Act (1922), *S. 2 (6) (c)* (May) 211

— Desertion — Word “desertion” in *S. 10, Hindu Marriage Act (1955)* — *See* Hindu Marriage Act (1955), *S. 10* (Dec) 573A

— “Directly worked by him” in *S. 28 of W. B. Estates Acquisition Act, 1953 (1 of 1954)* — *See* Tenancy Laws — West Bengal Estates Acquisition Act, 1953 (1 of 1954), *S. 6 (1) (h) and (i)* (Dec) 565C

— Earth and clay — Distinction between — *See* Mines and Minerals (Regulations and Development) Act (1957), *S. 3 (e)*

(June) 281

— Expression ‘customary rites and ceremonies’ — Meaning — *See* Hindu Marriage Act (1955), *S. 7* (Feb) 55C

— “Issued” — Meaning of — *See* Income-tax Act (1961), *S. 297 (2) (d) (i)* (Sep) 464

Words and Phrases (contd.)

— “Money in kind” meaning — *See* Income-tax Act (1922), *S. 42 (1)* (Feb) 71

— “Person” — Meaning of — In *O. 30, Civil P. C.* means individual and not corporations — *See* Civil P. C., (1908), *O. 30, R. 10*

(Oct) 496E

— “Reason to believe” — Meaning of — *See* Income-tax Act (1961), *S. 132 (1)*

(Sep) 431B

— “Record” — Meaning of (Sep) 451F

— “Trafficking in trade marks” — *See* Trade and Merchandise Marks Act (1950), *S. 48* (July) 342D

— Waiver — *See* Representation of the People Act (1951), *S. 36* (June) 267F

Workmen’s Compensation Act (8 of 1923), Ss. 2 (1) (g) and 3 — Partial disablement — Distinction between temporary and permanent partial disablement — Loss of earning capacity — Determination — Principles

(Aug) 378A

— *Ss. 2 (1) (g) and 3* — Loss of earning capacity — Factors to be considered — Value of medical evidence (Aug) 378B

— *S. 3* — Loss of earning capacity — Principles to determine — *See* Workmen’s Compensation Act (1923), *S. 2 (1) (g)*

(Aug) 378A

— *S. 3* — Loss of earning capacity — Determination — Value of medical evidence — *See* Workmen’s Compensation Act (1923), *S. 2 (1) (g)* (Aug) 378B

CALCUTTA CASES SUBJECTWISE OVERRULED, REVERSED AND DISSENTED FROM, ETC. IN AIR 1969

Diss. = Dissented from in; Not F. = Not followed in; Over. = Overruled in;
Revers. = Reversed in.

Arbitration Act (10 of 1940)

—Sch. 1, Para. 3 read with S. 3—AIR 1951 Cal 78—Diss. AIR 1969 Cal 167A (Mar).

Banking Companies Act (10 of 1949)

—S. 45B — AIR 1962 Cal 86 — Over. AIR 1969 Cal 158 (Mar).

Civil Procedure Code (5 of 1908)

—S. 11 — AIR 1923 Cal 496 — Diss. AIR 1969 All 504C (FB) (Oct).

—S. 20 — AIR 1931 Cal 659—Not F. AIR 1969 Cal 224A (May).

—O. 21, R. 32 (5) — AIR 1919 Cal 674 — Held no longer good law. AIR 1969 Andh Pra 92D (Mar).

—O. 21, R. 98 — AIR 1960 Cal 580 — Diss. AIR 1969 Mad 166 (May).

—O. 21, R. 103—AIR 1960 Cal 580—Diss. AIR 1969 Mad 166 (May).

—O. 22, R. 4 (3) and (4) (Mad) — (1955) 59 Cal W N 304 — Diss. AIR 1969 Mad 309A (Aug).

CIVIL SERVICES

—Fundamental Rules

—R. 113—1968 Lab I C 320 (Cal)—Revers. AIR 1969 Cal 525B (Nov).

Citizenship Act (57 of 1955)

—S. 9 (2)—AIR 1964 Cal 340—Held overruled by F. M. A. No. 30 of 1963 (Cal) as interpreted — AIR 1969 Cal 386D (Aug).

Companies Act (1 of 1956)

—S. 433 — Order of Datta J., D/- 23-4-1968 (Cal)—Revers. AIR 1969 Cal 363B (July).

—S. 483 — (1966) 70 Cal W N 516—Held not good law in view of AIR 1965 S C

Companies Act (1956) (contd.)

507 as interpreted. A I R 1969 Cal 363A (July).

Companies (Court) Rules (1959)

—Rr. 301 to 304 — (1962) 66 Cal W N 566 —Diss. AIR 1969 Pat 188A,B (June).

Constitution of India

—Art. 133 (1) (c) — AIR 1963 Cal 281 — Impliedly overruled. AIR 1969 Cal 253C (May).

—Art. 226 — AIR 1968 Cal 206—Held no longer good law in view of 1969 S C (Notes) 208. AIR 1969 Punj 391B (Nov).

—Art. 311 — AIR 1968 Cal 206—Held no longer good law in view of 1969 S C (Notes) 208. AIR 1969 Punj 391B (Nov).

—Art. 311 — 1968 Lab I C 320 (Cal) — Revers. AIR 1969 Cal 525B (Nov).

—Art. 311 (1) — AIR 1958 Cal 356—Diss. AIR 1969 Mys 41C (Feb).

Criminal Procedure Code (5 of 1898)

—S. 82 — AIR 1968 Cal 220—Revers. AIR 1969 S C 1171 (Dec).

—S. 146, sub-ss. (1B) and (1D) — AIR 1959 Cal 336 — Diss. AIR 1969 Assam 51A (July).

—S. 435 — AIR 1953 Cal 777 — Held not obiter. AIR 1969 Cal 257 (June).

—S. 435 — AIR 1959 Cal 366 — Diss. AIR 1969 Assam 51A (July).

—S. 435—Cri. Rev. Case No. 1004 of 1966 D/- 24-1-1967 (Cal) — Not F. AIR 1969 Cal 257 (June).

—S. 436 — AIR 1953 Cal 777 — Held not obiter. AIR 1969 Cal 257 (June).

Criminal P. C. (contd.)

- S. 436—Cri. Revn. Case No. 1004 of 1966 D/- 24-1-1967 (Cal) — **Not F.** AIR 1969 Cal 257 (June).
- S. 439 — AIR 1959 Cal 366 — **Diss.** AIR 1969 Assam 81A (July).
- S. 483 — AIR 1949 Cal 584 — **Diss.** AIR 1969 Ker 108 (Apr).
- S. 483 (1)—AIR 1955 Cal 488—**Diss.** AIR 1969 Delhi 235A (Aug).
- S. 489 — AIR 1949 Cal 584 — **Diss.** AIR 1969 Ker 108 (Apr).
- S. 514—AIR 1943 Cal 251 — **Diss.** AIR 1969 All 403 (Aug).

Defence of India Act (35 of 1939)

- S. 19 (1) (g) and (o)—AIR 1954 Cal 41—**Diss.** AIR 1969 Bom 151 (May).

EDUCATION

Punjab University Act (7 of 1947)

- S. 31 (2) (c) — AIR 1968 Cal 206 — **Held no longer good law** in view of 1969 S C (Notes) 208. AIR 1969 Punj 391B (Nov).

West Bengal Board of Secondary Education Act (37 of 1963)

- Ss. 45 (1), 46—(1967) 71 Cal W N 415—**Revers.** AIR 1969 Cal 175B (Mar).

Extradition Act (34 of 1962)

- S. 3—AIR 1968 Cal 220—**Revers.** A I R 1969 S C 1171 (Dec).

Fugitive Offenders Act (1881), (44 and 45 Vict., C 69)

- S. 13—AIR 1968 Cal 220—**Revers.** AIR 1969 S C 1171 (Dec).
- S. 26—AIR 1968 Cal 220—**Revers.** AIR 1969 S C 1171 (Dec).

Hindu Law

- Guardianship — ILR 39 Cal 232—**Held no longer good law** — A I R 1969 Bom 140A (Apr).

Hindu Marriage Act (25 of 1955)

- S. 24—AIR 1962 Cal 455 — **Diss.** A I R 1969 All 601 (Dec).

Hindu Marriage Act (contd.)

- S. 28—AIR 1962 Cal 455 — **Diss.** A I R 1969 All 601 (Dec).

Income-tax Act (11 of 1922)

- S. 3 — (1965) 1 I T J 93 (Cal) — **Revers.** AIR 1969 S C 1160C (Dec).
- S. 4—(1965) 1 I T J 93 (Cal) — **Revers.** AIR 1969 S C 1160C (Dec).
- S. 10—I. T. Ref. No. 65 of 1954, D/- 27-4-1963 (Cal) — **Revers.** A I R 1969 S C 1183 (Dec).
- S. 10 (2) (vi)—(1965) 57 I T R 774 (Cal) —**Revers.** AIR 1969 S C 1262D (Dec).
- S. 10 (2) (xv)—(1965) 1 I T J 93 (Cal) — **Revers.** AIR 1969 S C 1160B (Dec).

- S. 24 (1)—I. T. Ref. No. 38 of 1960, D/- 29-8-1963 (Cal)—**Revers.** AIR 1969 S C 1241B (Dec).

- S. 66 (1) — (1965) 1 I T J 93 (Cal) — **Revers.** AIR 1969 S C 1160A (Dec).

Industrial Disputes Act (14 of 1947)

- S. 2 (j)—AIR 1963 Cal 310—**Not F.** AIR 1969 Mad 134 (Apr).
- S. 15 — AIR 1933 Cal 409 — **Held no longer good law** as interpreted — A I R 1969 Pat 53D (Feb).
- Sch. 3, Item 5—AIR 1933 Cal 409—**Held no longer good law** as interpreted — AIR 1969 Pat 53D (Feb).

Land Acquisition Act (1 of 1894)

- S. 3 (a)—(1908) I L R 35 Cal 525—**Held no longer good law** in view of AIR 1968 S C 1045 as interpreted. A I R 1969 All 604A (Dec).

Limitation Act (9 of 1908)

- Art. 181—A I R 1954 Cal 164—**Held no longer good law** in view of AIR 1967 S C 990 as interpreted. A I R 1969 All 518 (Nov) (FB).

Limitation Act (36 of 1963)

- Arts. 64, 65—AIR 1958 Cal 437 — **Diss.** AIR 1969 Orissa 54 (Mar).

Mahomedan Law

- AIR 1949 Cal 436 — **Diss.** AIR 1969 All 75 (Feb).

Mines and Minerals (Regulation and Development) Act (67 of 1957)

- S. 15 — Cr. No. 433-W of 1963, D/- 8-7-1964 (Cal) — Diss. A I R 1969 Punj 79B (Mar).

Partition Act (4 of 1893)

- S. 2—(1950) 86 Cal L J 144—Over. AIR 1969 Cal 59A (Feb).
- S. 2—(1952) 90 Cal L J 147—Over. AIR 1969 Cal 59A (Feb).
- S. 2—Order of Datta, J., D/- 15-6-1966 (Cal)—Revers. AIR 1969 Cal 59A (Feb).
- S. 6—(1950) 86 Cal L J 144—Over. AIR 1969 Cal 59A (Feb).
- S. 6—(1952) 90 Cal L J 147—Over. AIR 1969 Cal 59A (Feb).
- S. 6—Order of Datta, J., D/- 15-6-1966 (Cal)—Revers. AIR 1969 Cal 59A (Feb).

Prevention of Food Adulteration Act (37 of 1954)

- S. 7 (i)—AIR 1967 Cal 110—Diss. A I R 1969 Ker 79 (Mar).
- S. 16 (1) (a) (i)—AIR 1967 Cal 110—Diss. AIR 1969 Ker 79 (Mar).

Provident Funds Act (19 of 1925)

- S. 3—AIR 1947 Cal 395—Held no longer good law in view of Amendment of Act in 1946 A I R 1969 Punj 44 (Feb).
- S. 4 (1) (i)—AIR 1947 Cal 395—Held no longer good law in view of Amendment of Act in 1946 A I R 1969 Punj 44 (Feb).
- S. 5 (as amended in 1946) — AIR 1947 Cal 395 — Held no longer good law in view of Amendment of Act in 1946 in AIR 1969 Punj 44 (Feb).

Transfer of Property Act (4 of 1882)

- S. 106—AIR 1952 Cal 320—Diss. A I R 1969 Assam 134B (Dec).

CALCUTTA CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN AIR 1969

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- (1908) 35 Cal 525 = 7, Cal L J 445, Shyam Chunder Mardraj v. Secy. of State—**Held no longer good law** in view of AIR 1968 S C 1045 as interpreted AIR 1969 All 604A (Dec)
- (1912) 39 Cal 232=39 Ind App 16, (P C), Mir Sarwarjan v. Fakhruddin Mahomed—**Held no longer good law** in view of AIR 1948 P C 95=75 I A 115 AIR 1969 Bom 140A (April)
- AIR 1918 Cal 932=45 Cal 585 = 19 Cri L J 315, Nando Lal Ganguli v. Khetra Mohan Ghose—**Over.** AIR 1969 S C 724A (Aug)
- AIR 1919 Cal 674=46 Cal 103, Sachi Prasad v. Amar Nath — **Held no longer good law** in view of AIR 1934 Cal 402 AIR 1969 Andh Pra 92D (March)
- AIR 1923 Cal 496=37 Cal L J 184, Isup Ali v. Gour Chandra Deb—**Diss.** AIR 1969 All 504C (FB) (Oct)
- AIR 1931 Cal 659=58 Cal 539, Engineering Supplies Ltd. v. Dhandhanian and Co. — **Not F.** AIR 1969 Cal 224A (May)
- AIR 1933 Cal 409=60 Cal 909, Secy. of State v. Bhola Nath — **Held no longer good law** in view of AIR 1950 S C 188 AIR 1969 Pat 53D (Feb)
- AIR 1935 Cal 488 = 36 Cri L J 1114, Hemanta Kumar v. Manorama Debi — **Diss.** AIR 1969 Delhi 235A (Aug)
- AIR 1943 Cal 251=44 Cri L J 630, Annada Charan v. Emperor — **Diss.** AIR 1969 All 403 (Aug)
- AIR 1947 Cal 176=50 Cal W N 872, Keshab Lal v. Ivarani Rudra—**Held no longer good law** in view of Amendment of Act in 1946 in AIR 1969 Punj 44 (Feb)
- AIR 1949 Cal 436 = 49 Cal W N 439, Mt. Ayesha Bibi v. Subodh Ch. Chakravarty — **Diss.** AIR 1969 All 75 (Feb)
- AIR 1949 Cal 584 = 50 Cri L J 1006, J. H. Amroon v. Miss R. Sassoon—**Diss.** AIR 1969 Ker 108 (April)
- (1950) 86 Cal L J 144, Pannalal Dutt v. Hrishikesh Dutt—**Over.** AIR 1969 Cal 59A (Feb)
- AIR 1951 Cal 78 = 55 Cal W N 147, Bajranglal Laduram v. Ganesh Commercial Co., Ltd.—**Diss.** AIR 1969 Cal 167A (March)
- AIR 1952 Cal 320 = 86 Cal L J 12, Sati Prasanna Mukherjee v. Md. Fazel — **Diss.** AIR 1969 Assam 134B (Dec)
- 90, Cal L J 147, Narendra Nath Das v. Jnanendra Nath Das — **Over.** AIR 1969 Cal 59A (Feb)
- I. T. Ref. No. 38 of 1952, D/- 2-6-1953 (Cal), Ishwardas Subhakaran v. Commr. of I. T. W. B. — **Over.** AIR 1969 S C 862 (Oct)
- AIR 1954 Cal 41 = 92 Cal L J 246, East India Film Studios v. P. J. Mukherjee — **Diss.** AIR 1969 Bom 151 (May)
- AIR 1954 Cal 164 = 93 Cal L J 66, Shah and Co. v. Ishar Singh Kirpal Singh—**Held no longer good law** in view of AIR 1967 S C 990 as interpreted AIR 1969 All 518 (FB) (Nov)
- (1955) 59 Cal W N 304 = I L R (1956) 1 Cal 348, Nani Gopal v. Panchanan — **Diss.** AIR 1969 Mad 309A (Aug)
- AIR 1956 Cal 390 = 60 Cal W N 683, D. H. Rly. Co., Ltd. v. Jetmull Bhojraj—**Over.** AIR 1969 S C 817B (Oct)
- AIR 1958 Cal 356=62 Cal W N 531, Dualal Ranjan Adetya v. R. K. Bose—**Diss.** AIR 1969 Mys 41C (Feb)
- AIR 1958 Cal 437, Achhiman Bibi v. Abdur Rahim — **Diss.** AIR 1969 Orissa 54 (March)
- AIR 1959 Cal 366 = 1959 Cri L J 700, Ram Narayan Goswami v. Biswanath Goswami — **Diss.** AIR 1969 Assam 81A (July)
- AIR 1960 Cal 580, Gopiram v. Sevantilal — **Diss.** AIR 1969 Mad 166 (May)
- AIR 1962 Cal 42=65 Cal W N 876, Niranjanlal Agarwalla v. Union of India — **Revers.** AIR 1969 S C 23A (Jan)
- AIR 1962 Cal 86=66 Cal W N 761, Comrade Bank Ltd. v. Jyoti Bala Dassi — **Over.** AIR 1969 Cal 153 (Mar).
- AIR 1962 Cal 169, Union of India v. Kashi Prosad — **Revers.** AIR 1969 S C 762 (Sep).
- AIR 1962 Cal 203 = 1962 (1) Cri L J 565 (FB), Prova Debi v. Mrs. Fernandes — **Over.** AIR 1969 S C 331A (May)
- AIR 1962 Cal 455 = 66 Cal W N 388, Gopendra Nath Basu Malik v. Smt. Pratiba Rani—**Diss.** AIR 1969 All 601 (Dec).
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- AIR 1963 Cal 310=1 Lab L J 567, Rabindra-nath Sen v. First Industrial Tribunal W. B. — Not F. AIR 1969 Mad 134 (Apr).
- I. T. Ref. No. 65 of 1954, D/- 27-4-1963 (Cal) — Revers. AIR 1969 S C 1183 (Dec).
- I. T. Ref. No. 33 of 1960, D/- 29-8-1963 (Cal) — Revers. AIR 1969 S C 1241B (Dec).
- AIR 1964 Cal 340, Nitya Gopal De v. State of W. B. — Held overruled by F. M. A. No. 3 of 1963 (Cal) as interpreted. AIR 1969 Cal 386D (Aug).
- Civil Rule No. 433.W. of 1963 and Connected Petns. D/- 8-7-1964 (Cal), Ajit Kumar v. State of Bengal — Diss. AIR 1969 Punj 79 (Mar).
- Cri. Misc. Case No. 28 of 1964, D/- 16-6-1964 (Cal) — Revers. AIR 1969 S C 189A, B (Mar).
- (1965) 1 I T J 98 (Cal), Imperial Chemical Industries (India) (Pvt.) Ltd., Calcutta v. Commr. of I. T., Calcutta — Revers. AIR 1969 S C 1160A, B, C (Dec).
- (1965) 57 I T R 774 (Cal), Commr. of I. T. West Bengal v. Netherland Steam Navigation Co. Ltd. — Revers. AIR 1969 S C 1262D (Dec).
- I. T. Ref. No. 130 of 1961, D/- 26-3-1965 (Cal) — Revers. AIR 1969 S C 946 (Nov).
- I. T. Ref. No. 215 of 1961, D/- 14-1-1965 (Cal) — Revers. AIR 1969 S C 572 (July)
- (1966) 70 Cal W N 516=(1966) 36 Com Cas 485, John Herbert & Co. Pvt. Ltd. v. Pranay Kumar Datta — Held not good law in view of AIR 1965 S C 507 as interpreted AIR 1969 Cal 363A (July)
- (1966) 1 I T J 824 (Cal), Durga Das Khanna v. Commr. of I. T. — Revers. AIR 1969 S C 775 (Sep).
- Order of Datta J., D/- 15-6-1966 (Cal) — Revers. AIR 1969 Cal 59A (Feb).
- AIR 1967 Cal 110=1967 Cri L J 329, Shipping and Clearing (Agents) v. Calcutta Corporation — Diss. AIR 1969 Ker 79 (Mar).
- (1967) 71 Cal W N 415=15 F L R 360, B. N. Banerjee v. State of W. B. — Revers. AIR 1969 Cal 175B (Apr).
- Cri. Revn. Case No. 1004 of 1966, D/- 24-1-1967 (Cal) — Not F. AIR 1969 Cal 287 (June).
- AIR 1968 Cal 206=71 Cal W N 786, Commr. for the Port of Calcutta v. Baleswar Singh — Held no longer good law in view of 1969 S C (Notes) 208 as interpreted AIR 1969 Punj 391B (Nov).
- AIR 1968 Cal 220, Jugal Kishore More v. Chief Presidency Magistrate, Calcutta — Revers. AIR 1969 S C 1171 (Dec).
- 1968 Lab I-C 320 (Cal), Bikash Chatterjee v. Director General of Health Services — Revers. AIR 1969 Cal 525B (Nov).
- Order of Datta J., D/- 23-4-1968 (Cal) — Revers. AIR 1969 Cal 363B (July)

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years

Owing to late receipt of other Journals the following supplement to Comparative Tables of A. I. R. — Other Journals is issued.

A. I. R. Calcutta = Other Journals.

AIR 1965 Cal		AIR 1967 Cal		AIR 1968 Cal		AIR 1968 Cal	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
484	(1969) 1 Lab LJ 816	29	(1969) 1 Lab LJ 300	59	(1969) 1 Lab LJ 50	278 con	18 Fac L R 128
—	—	461	(1969) 1 Lab LJ 290	79	39 Com Cas 119	355	39 Com Cas 126
AIR 1966 Cal	—	—	—	198	(1969) 1 Com L J 128	383	71 ITR 3 9
AIR	Other Journals	AIR 1968 Cal	Other Journals	253	73 ITR 727	394	39 Com Cas 258
545	(1969) 1 Lab LJ 27	35	(1969) 1 Lab LJ 45	278	(1968) 2 Lab LJ 769	572	39 Com Cas 741
—	—	—	—	—	—	582	73 Cal W N 169

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- AIR 1949 Cal 581 = 50 Cri L J 1006, J. H. Amroon v. Miss R. Sassoon—Diss. AIR 1969 Ker 108 (April)
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- AIR 1952 Cal 320 = 86 Cal L J 12, Sati Prasanna Mukherjee v. Md. Fazal — Diss. AIR 1969 Assam 131B (Dec)
- 90 Cal L J 147, Narendra Nath Das v. Inanendra Nath Das — Over. AIR 1969 Cal 59A (Feb)
- I. T. Ref. No. 38 of 1952, D/- 2-6-1953 (Cal), Ishwardas Subhkaran v. Commr. of I. T. W. B. — Over. AIR 1969 S C 862 (Oct)
- AIR 1954 Cal 41 = 92 Cal L J 246, East India Film Studios v. P. J. Mukherjee —Diss. AIR 1969 Bom 151 (May)
- AIR 1954 Cal 164 = 93 Cal L J 66, Shah and Co. v. Ishar Singh Kirpal Singh—Held no longer good law in view of AIR 1967 S C 990 as interpreted AIR 1969 All 518 (FB) (Nov)
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- AIR 1958 Cal 356 = 62 Cal W N 531, Dualal Ranjan Adetya v. R. K. Bose—Diss. AIR 1969 Mys 41C (Feb)
- AIR 1958 Cal 437, Achhiman Bibi v. Abdur Rahim — Diss. AIR 1969 Orissa 54 (March)
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- AIR 1962 Cal 169, Union of India v. Kashi Prosad — Revers. AIR 1969 S C 762 (Sep).
- AIR 1962 Cal 203 = 1962 (1) Cri L J 565 (FB), Prova Debi v. Mis. Fernandes — Over. AIR 1969 S C 381A (May)
- AIR 1962 Cal 455 = 66 Cal W N 388, Gopendia Nath Basu Malik v. Smt. Prativa Rani—Diss. AIR 1969 All 601 (Dec).
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- AIR 1963 Cal 310=1 Lab L J 567, Rabindranath Sen v. First Industrial Tribunal W. B. — Not F. AIR 1969 Mad 134 (Apr).
- I. T. Ref. No. 65 of 1954, D/- 27-4-1963 (Cal) — Revers. AIR 1969 S C 1183 (Dec).
- I. T. Ref. No. 38 of 1960, D/- 29-8-1963 (Cal) — Revers. AIR 1969 S C 1241B (Dec).
- AIR 1964 Cal 340, Nitya Gopal De v. State of W. B. — Held overruled by F. M. A. No. 3 of 1963 (Cal) as interpreted AIR 1969 Cal 386D (Aug).
- Civil Rule No. 433.W. of 1963 and Connected Petns. D/- 8-7-1964 (Cal), Ajit Kumar v. State of Bengal — Diss. AIR 1969 Punj 79 (Mar).
- Cri. Misc. Case No. 28 of 1964, D/- 16-6-1964 (Cal) — Revers. AIR 1969 S C 189A, B (Mar).
- (1965) 1 I T J 93 (Cal), Imperial Chemical Industries (India) (Pvt). Ltd., Calcutta v. Commr. of I. T., Calcutta — Revers. AIR 1969 S C 1160A, B, C (Dec).
- (1965) 57 I T R 774 (Cal), Commr. of I. T. West Bengal v. Netherland Steam Navigation Co. Ltd. — Revers. AIR 1969 S C 1262D (Dec).
- I. T. Ref. No. 130 of 1961, D/- 26-3-1965 (Cal) — Revers. AIR 1969 S C 946 (Nov).
- I. T. Ref. No. 215 of 1961, D/- 14-1-1965 (Cal) — Revers. AIR 1969 S C 572 (July)
- (1966) 70 Cal W N 516=(1966) 36 Com Cas 485, John Herbert & Co. Pvt. Ltd. v. Pranay Kumar Datta — Held not good law in view of AIR 1965 S C 507 as interpreted AIR 1969 Cal 363A (July)
- (1966) 1 I T J 824 (Cal), Durga Das Khanna v. Commr. of I. T. — Revers. AIR 1969 S C 775 (Sep).
- Order of Datta J., D/- 15-6-1966 (Cal) — Revers. AIR 1969 Cal 59A (Feb).
- AIR 1967 Cal 110=1967 Cri L J 329, Shipping and Clearing (Agents) v. Calcutta Corporation — Diss. AIR 1969 Ker 79 (Mar).
- (1967) 71 Cal W N 415=15 F L R 360, B. N. Banerjee v. State of W. B. — Revers. AIR 1969 Cal 175B (Apr).
- Cri. Revn. Case No. 1004 of 1966, D/- 24-1-1967 (Cal) — Not F. AIR 1969 Cal 287 (June).
- AIR 1968 Cal 206=71 Cal W N 786, Commr. for the Port of Calcutta v. Baleswar Singh — Held no longer good law in view of 1969 S C (Notes) 208 as interpreted AIR 1969 Punj 391B (Nov).
- AIR 1968 Cal 220, Jugal Kishore More v. Chief Presidency Magistrate, Calcutta — Revers. AIR 1969 S C 1171 (Dec).
- 1968 Lab I-C 320 (Cal), Bikash Chatterjee v. Director General of Health Services — Revers. AIR 1969 Cal 525B (Nov).
- Order of Datta J., D/- 23-4-1968 (Cal) — Revers. AIR 1969 Cal 363B (July)

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years

Owing to late receipt of other Journals the following supplement to Comparative Tables of A. I. R. = Other Journals is issued.

A. I. R. Calcutta = Other Journals.

AIR 1955 Cal		AIR 1967 Cal		AIR 1968 Cal		AIR 1968 Cal	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
484	(1969) 1 Lab LJ 816	29	(1969) 1 Lab LJ 300	59	(1968) 1 Lab LJ 50	278 con 18	Fao L R 128
	—	461	(1969) 1 Lab LJ 290	79	39 Com Cas 119	355	39 Com Cas 128
	AIR 1966 Cal		—	198	(1969) 1 Com L J 123	383	71 ITR 3 9
AIR	Other Journals		AIR 1968 Cal		73 ITR 727	394	39 Com Cas 258
545	(1969) 1 Lab LJ 27	AIR	Other Journals	253	(1968) 2 Lab LJ 769	572	39 Com Cas 741
	—	35	(1969) 1 Lab LJ 45	278		582	73 Cal W N 169

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [CN 1] SB		139 [CN 23]		286 [CN 51] ...		458 [CN 79] ...	1969 Cri L J 1120.
72 Cal W N 82		71 I T R 301		287 [CN 52]		461 [CN 80]	...
1969 Cri L J 40		(1969) 1 I T J 776		1969 Cri L J 717		(1969) 18 F L R 87	
4 [CN 2] ...		146 [CN 24] ...		73 Cal W N 635		1969 Lab I C 1299	
11 [CN 3]		149 [CN 25]		233 [CN 53]		464 [CN 81] ...	
72 Cal W N 795		1969 Lab I C 268		72 Cal W N 905		472 [CN 82] ...	
12 [CN 4]		35 F J R 372		304 [CN 54]		474 [CN 83]	
73 Cal W N 522		74 Cal W N 1		73 Cal W N 100		1969 Cri L J 1221	
18 [CN 5] ...		152 [CN 26]		312 [CN 55] ...		477 [CN 84]	
23 [CN 6]		1969 Lab I C 271		316 [CN 56]		481 [CN 85]	
1969 Cri L J 1 st 0		157 [CN 27]		1969 Cri L J 723		1969 Cri L J 1221	
32 [CN 7]		1969 Cri L J 405		321 [CN 57] ...		492 [CN 86]	
72 Cal W N 384		158 [CN 28]		310 [CN 58]		73 Cal W N 212	
(1968) 1 Com		39 Com Cas 309		73 Cal W N 97		1969 Cri L J 1234	
L J 129		161 [CN 29]		1969 Cri L J 879		498 [CN 87] ...	
38 Com Cas 487		1969 Cri L J 462		342 [CN 59] ...		516 [CN 88] ...	
39 [CN 8] ...		164 [CN 30]		360 [CN 60]		525 [CN 89]	
43 [CN 9]		1969 Lab I C 406		74 Cal W N 109		73 Cal W N 249	
73 Cal W N 347		167 [CN 31] ...		72 Cal W N 872		1964 Lab I C 1334	
55 [CN 10]		171 [CN 32] ...		(1968) 2 Com L J 315		531 [CN 90] ...	
1969 Cri L J 164		175 [CN 33]		39 Com Cas 262		535 [CN 91]	
59 [CN 11]		73 Cal W N 162		374 [CN 62] ...		1969 Cri L J 1361	
72 Cal W N 299		180 [CN 34]		378 [CN 63]		539 [CN 92]	
67 [CN 12]		1969 Lab I C 403		73 Cal W N 491		1969 Cri L J 1364	
73 Cal W N 10		198 [CN 35]		1969 Lab I C 971		542 [CN 93]	
69 [CN 13]		72 Cal W N 328		1969 A C J 92		1969 Lab I C 1341	
73 Cal W N 258		211 [CN 36] ...		381 [CN 64] ...		544 [CN 94]	
71 [CN 14]		218 [CN 37] ...		386 [CN 65] ...		1969 Cri L J 1367	
72 Cal W N 891		221 [CN 38]		390 [CN 66] ...		547 [CN 95] ...	
(1969) 1 I T J 1		1969 Cri L J 860		394 [CN 67] ...		550 [CN 96]	
72 I T R 121		224 [CN 39] ...		397 [CN 68]		(1968) 2 Com L J 155	
80 [CN 15] ...		232 [CN 40]		17 Fac L R 78		564 [CN 97] ...	
88 [CN 16] ...		1969 Cri L J 592		1969 Lab I C 1094		565 [CN 98]	
92 [CN 17]		234 [CN 41]		73 Cal W N 803		73 Cal W N 920	
73 I T R 595		236 [CN 42]		406 [CN 69] ...		573 [CN 99]	
95 [CN 18]		74 I T R 687		416 [CN 70] ...		73 Cal W N 721	
17 Fac L R 50		238 [CN 43] ...		1969 Cri L J 1553		578 [CN 100]	
1969 Lab I C 142		247 [CN 44]		418 [CN 71] ...		1969 Lab I C 1467	
39 Com Cas 327		1969 Cri L J 595		420 [CN 72] ...		578 [CN 101]	
35 I T R 292		249 [CN 45]		421 [CN 73]		(1969) 1 Com L J 55	
104 [CN 19]		(1968) 2 I T J 261		1969 Cri L J 1117		594 [CN 102]	
1969 Ren O R 142		253 [CN 46]		73 Cal W N 246		1969 Cri L J 1480	
109 [CN 20] ...		73 Cal W N 533		1969 Cri L J 1118		602 [CN 103]	
111 [CN 21] ...		260 [CN 47] ...		424 [CN 75] ...		1969 Cri L J 1467	
132 [CN 22]		267 [CN 48] ...		431 [CN 76] ...		604 [CN 104]	
73 Cal W N 22		281 [CN 49] ...		446 [CN 77] ...		1969 Lab I C 1468	
(1968) 2 Com L J 844		284 [CN 50]		451 [CN 78]		607 [CN 105] ...	
1969 Cri L J 582		70 Cal W N 683		73 Cal W N 547			
39 Com Cas 150							

Other Journals = All India Reporter

ILR (1969)

1 & 2 Cal

(Not received)

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SUBJECT INDEX

Adjournment — See Civil P. C. (1908), O. 17, R. 1

Army Instructions of 1949, No. 212 — Contravention of—Suit by employee, is maintainable—See Civil P. C. (5 of 1908), S. 9 (July) 220B

Authentication (Orders and other Instruments) Rules (1950), R. 2 (a)—Authentication needs only signature of officer named in cl. (a)—See Constitution of India, Art. 77 (Oct) 285 (FB)

Bengal Finance (Sales Tax) Act (6 of 1941)
See under Sales Tax.

Civilians in Defence Services (Classification, Control and Appeal) Rules (1952)
See under Civil Services.

Civil Procedure Code (5 of 1908), Preamble—Directory or mandatory provisions — Directory provision does not give discretion—See Criminal P. C. (1898), S. 165 (1) (Jan) 26A

—*Pre.*—Interpretation of Statutes—Directory or mandatory provisions — Use of word “shall”—See Criminal P. C. (1898), S. 165 (5) (Jan) 26C

—*Pre.*—Interpretation of Statutes—Fiscal statutes—Liberal interpretations—See Court Fees and Suits Valuation — Court Fees Act (1870), Pre (May) 130B

—*Pre.*—Interpretation of Statutes — Rules of—Use of legislative history — (Interpretation of Statutes) (May) 154A (FB)

—*Pre.*—Interpretation of Statutes—Special and General law—See Motor Vehicles Act (1939), Ss. 110 to 110-F (June) 183C

—*Pre.*—Interpretation of words—Meaning of words—Restricted meaning — Avoidance of—See Criminal P. C. (1898), S. 488 (1) (Aug) 235A

—*Pre.*—Interpretation of Statutes — Word ‘maintenance’ in S. 488 (1), Criminal P. C. should not be given restricted meaning — See Criminal P. C. (1898), S. 488 (1) (Aug) 235B

—*Pre.*—Interpretation of Statutes—Implied repeal — Personal law like Hindu Adoptions and Maintenance Act (1956) does not override general law like Criminal P. C., S. 488—See Hindu Adoptions and Maintenance Act (1956), S. 20 (Aug) 235C

—*Pre.*—Maxim — Actio personalis moritur cum persona (Personal action dies with the person)—See Trusts Act (1882), S. 19 (Mar) 75D

—*Pre.*—Precedents—Claim for compensation under one Act — Decisions under another cognate Act—Usefulness of—See Motor Vehicles Act (1939), S. 110-B (June) 183D

—S. 2 (9) — Judgment — Meaning of in C. P. Code not helpful in ascertaining mean-

Civil P. C. (contd.)

ing of the word in S. 10 of Delhi High Court Act, 1966—See Delhi High Court Act (1966), S. 10 (Mar) 85A (FB)

—S. 2 (2) (9) — Judgment — Meaning of explained—See Letters Patent (Lahore) Cl. 10 (Mar) 85B (FB)

—S. 2 (12)—Mesne profits — What is—See Transfer of Property Act (4 of 1882), S. 116 (Feb) 59

—S. 7—Rent Controller under Delhi Rent Control Act—Not conferred with all the powers of a Civil Court under Civil Procedure Code — See Civil P. C. (1908), O. 23, R. 3 (Jan) 7

—S. 9—Bar of jurisdiction of Civil Courts —Not to be readily inferred — See Motor Vehicles Act (1939), S. 110F (Jan) 3

—S. 9 — Army Instructions of 1949, No. 212 — Downgrading of Government employee—Contravention of Army Instructions —Suit by employee is maintainable (July) 220B

—S. 34—Interest—Awarded in decree till realisation — Interest is something apart from decree — Rule of Damdupat not applicable to future interest — See Debt Laws — Punjab Relief of Indebtedness Act (7 of 1934), S. 30 (1) (Oct) 289

—S. 92 — Suit for rendition of accounts by trustee against co-trustee — Maintainability—See Trusts Act (1882), S. 48 (Mar) 75A

—S. 92—Scope — Suit for rendition of accounts by co-trustees against trustee who was in day-to-day charge of trust-properties —Suit does not come within scope of S. 92 (Mar) 75C

—Ss. 96 and 100-101 and O. 20, R. 4 — First appellate Court—Duty of — Judgment must clearly suggest that Court has applied judicial mind to appreciation of evidence particularly when reversing conclusions of fact (July) 197

—Ss. 100-101—Judgment must suggest that the Court has applied judicial mind to appreciation of evidence particularly when reversing conclusions of fact — See Civil P. C. (5 of 1908), S. 96 (July) 197

—S. 115—Discretion of Court in allowing amendment—Revision—See Civil P. C. (5 of 1908), O. 6, R. 17 (Nov) 311

—S. 115 and O. 39, Rr. 1 and 2 — Appellate Court reversing trial Court's order under O. 39, Rr. 1 and 2—Revision against appellate order—Power of High Court — Discretion in granting interim injunction not improperly exercised—No jurisdictional infirmity—No interference in revision (Dec) 349A

—Ss. 121, 122, 127 and O. 37 R. 1 (d) (Punjab) —O. 37, R. 1 (d) validly amended by Punjab

Civil P. C. (contd.)

High Court continues to apply to Courts of District Judges and Subordinate Judges in Union Territory of Delhi even after appointed day i.e. 30-10-1966 — Ss. 121 and 127 do not alter this position so long as power to amend under S. 122 is not exercised by Delhi High Court — (Constitution of India, Art. 245) (May) 142A

—S. 122—Rule making powers—Exercise of — See Civil P. C. (1908), S. 121 (May) 142A

—S. 127—O. 37, R. 1 (d) validly amended by Punjab High Court—Punjab High Court replaced by Delhi High Court — Latter not taking any action under S. 122 — Rule continues to apply to Courts of District Judges in Union Territory of Delhi—See Civil P. C. (1908), S. 121 (May) 142A

—S. 151 — Abuse of judicial process — Proceedings on application of litigating party—Inherent powers cannot be invoked —See Contempt of Courts Act (1952), S. 3 (Jan) 6

—S. 151 and O. 41 R. 33 — Claim for compensation for death under S. 110A Motor Vehicles Act dismissed by Tribunal — One of claimants not having appealed added as respondent to appeal under S. 110D — Decision of Tribunal reversed and claim allowed —High Court in exercise of its power under O. 41, R. 33 read with S. 151, Civil P. C. can award compensation in favour of respondent claimant in order to do complete justice between parties (June) 183F

—S. 151—Inherent powers are to be used in exceptional cases only — See Criminal P. C. (1898), S. 561 (Oct) 301B

—O. 1, R. 10—Misdescription of parties—Sales tax case against Chief Commissioner of Delhi — After formation of Delhi State Lt. Governor taking place of Chief Commissioner during pendency of proceedings—Omission to move the Court for amendment so as to have the Lt. Governor substituted in place of Chief Commissioner—Held, indicative of want of care and attention (Jan) 1B

—O. 6, R. 2—Pleadings—Construction — Law of pleadings should not be so rigidly construed as to be inappropriate and not calculated to serve the cause of justice (Apr) 120D

—O. 6, R. 17, S. 115 —Discretion of Court in allowing amendment— Court on revision cannot ordinarily substitute its own discretion for that of Court below (Nov) 311

—O. 7, R. 10—Return of plaint for presentation to competent Court of another State — Court-fee purchased in first State can lawfully be received by Court in another State—See Court-fees and Suits Valuation — Court-fees Act (1870), S. 13 (May) 130C

Civil P. C. (contd.)

—O. 12, R. 6 and O. 15, R. 3—Suits for dissolution of partnership—Defendants admitting partnership in one suit — Preliminary decree passed in such suit on such admission is justified (Oct) 275B

—O. 15, R. 3—Parties at issue—Suit for dissolution—Partnership admitted — Preliminary decree as such admission justified—See Civil P. C. (1908), O. 12, R. 6 (Oct) 275B

—O. 17, R. 1—Adjournment—Court sole authority to fix dates of hearing—See Criminal P. C. (1898), S. 526 (Sep) 263A

—O. 17, R. 1—Adjournments—Duty of the Bar (Sep) 263B

—O. 20, R. 4—Judgment must clearly suggest that Court has applied its mind to appreciation of evidence—See Civil P. C. (5 of 1908), S. 96 (July) 197

—O. 20, R. 15—Suit for dissolution of alleged partnership — Defendant admitting relationship of parties as partners—Judge passing preliminary decree in favour of plaintiff—Merely not giving finding as to which party is liable to render account does not cause prejudice to plaintiff—Appeal by him not competent (Oct) 275A

—O. 22, R. 1— Suit for rendition of accounts against a trustee—Does not abate on death of trustee—See Trusts Act (1882), S. 19 (Mar) 75D

—O. 23, R. 3 and O. 43, R. 1 (m), S. 7 and O. 50, R. 1 (a)—Applicability—Orders of Additional Rent Controller refusing to record compromise in application under S. 14 of Delhi Rent Control Act—Provisions of O. 23, R. 3 do not apply—Order therefore, not appealable under O. 43, R. 1 (m) (Jan) 7

—O. 34, R. 11—Award of future interest till realisation of award in decree—Doctrine of "Damdupat" not applicable for total amount becoming due — See Civil P. C. (1908), S. 34 (Oct) 289

—O. 37, R. 1 (d) (Punj)—Rule as amended by Punjab High Court continues to apply to Courts of District Judges in Union Territory of Delhi even after appointed day i. e., 30-10-1966—See Civil P. C. (1908), S. 121 (May) 142A

—O. 39, R. 1—Discretion in granting interim injunction not improperly exercised — No interference in revision—See Civil P. C. (1908), S. 115 (Dec) 349A

—O. 39, R. 2 — Discretion in granting interim injunction not improperly exercised —No interference in revision — See Civil P. C. (1908), S. 115 (Dec) 349A

—O. 41, R. 22—Cross objections—Dismissal of — Decree should bear date of judgment of dismissal—Application for certified

Civil P. C. (contd.)

copy of decree not made within time for appeal — Decree sheet not prepared — Period of limitation will not be extended — Section 5, Limitation Act, can be used to claim extension (Apr) 126H

—O. 41, R. 22—Cross objections—Scope of — Respondent, when should raise cross-objection (Apr) 126B

—O. 41, R. 22—Cross objections—Decree against some defendants—One defendant's appeal dismissed—Appeal by others—Whether the defendant whose appeal was dismissed can assail the decree and reopen the controversy in the garb of cross objections. (Quaere) (Apr) 126C

—O. 41, R. 22—Cross objections—Appeal and cross objections should be heard together — Judgment should be one; and decision incorporated in one decree—Appeal finally disposed of — Cross objection cannot be adjudicated upon later (Apr) 126D

—O. 41, R. 27—Scope and applicability — Provision regarding production of additional evidence in appellate Court — Applies also to Letters Patent appeals (Oct) 279A

—O. 41, R. 27—Additional evidence—Appellate Court can admit official document delegating executive power of the Central Government to the State Government in the interest of justice (Oct) 279B

—O. 41, R. 27—Whether applies to appeals against orders granting temporary injunction under O. 39, Rr. 1 & 2—(Quaere) (Dec) 349B

—O. 41, R. 33—Claim for compensation for death under S. 110A of Motor Vehicles Act dismissed by Tribunal — One of the claimant added as respondent—Decision of tribunal reversed and claim allowed—High Court can award compensation in favour of respondent claimant—See Civil P. C. (1908), S. 151 (June) 183F

—O. 43, R. 1 (m)—Order of Additional Rent Controller refusing to record compromise in application under S. 14 of Delhi Rent Act — Not appealable under O. 43, R. 1 (m) — See Civil P. C. (1908), O. 23, R. 3 (Jan) 7

—O. 50, R. 1 (a)—Applicability to proceedings under S. 14, Delhi Rent Control Act — See Civil P. C. (1908), O. 23, R. 3 (Jan) 7

CIVIL SERVICES

—**Civilians in Defence Services (Classification, Control and Appeal) Rules (1952), R. 31**—Order down-grading appellant—No appeal pending against order as contemplated by R. 31 when Rules came into force—Memorial by appellant against order in appeal however pending—Memorial held could not constitute an appeal within the meaning of

Civil Services—Civilians in Defence Services etc. Rules (contd.)

R. 31 and his case could not be disposed of under the Rules (July) 220C

—**Delhi Administration Subordinate Ministerial Executive Service Rules (1967), R. 3**—Rules deal with services in connection with affairs of Union—See Constitution of India, Art. 309 (Aug) 246A

—R. 3—Art. 311 (2) not applicable to reversion or discharge under newly framed rules to employees appointed on ad hoc basis in Delhi Administration—See Constitution of India, Art. 311 (2) (Aug) 246C

—R. 3—Consolidated service — Appointments made on ad hoc basis with no rights — Cadre bifurcated into Executive and Ministerial Services — Candidate originally chosen for executive posts transferred to executive service — Rest retained on Ministerial service — No discrimination — See Constitution of India, Art. 14 (Aug) 246D

—R. 3 — Appointment to certain posts challenged — Disclosure of official communication dealing with fitness demanded — Disclosure harmful to proper functioning of service — Disclosure not ordered — See Evidence Act (1872), S. 123 (Aug) 246E

—R. 3—Rule not retrospective—See Delhi Administration Subordinate Ministerial Executive Service Rules (1967), R. 5 (Aug) 246F

—R. 5 — Art. 311 (2) not applicable to reversion or discharge under newly framed rules to employees appointed on ad hoc basis with Delhi administration—See Constitution of India, Art. 311 (2) (Aug) 246C

—R. 5 — Consolidated service—Appointments made on ad hoc basis with no rights — Cadre bifurcated into Executive and Ministerial services — Candidate originally chosen for executive post transferred to executive service—Rest retained in Ministerial service — No discrimination — See Constitution of India, Art. 14 (Aug) 246D

—R. 5 — Appointment to certain posts challenged — Disclosure of official communication dealing with fitness demanded — Disclosure harmful to proper functioning of service — Disclosure not ordered—See Evidence Act (1872), S. 123 (Aug) 246E

—Rr. 5 and 3—Neither R. 5 nor any other Rule is retrospective (Aug) 246F

Fundamental Rules, R. 56 — Rule is not against safeguard given under Art. 14 of the Constitution — See Constitution of India, Art. 311 (3) (Jan) 15

Regulations for the Medical Services of the Army in India, Pr. 399 — Regulations are not made under Art. 309 — See Constitution of India, Art. 309 (July) 220

Civil Services—Regns. for the Medical Services etc., India (contd.)

—*Para. 427*—Regulations are not made under Art. 309—*See* Constitution of India, Art. 309 (July) 220D

—*Para. 428*—Regulations are not made under Art. 309—*See* Constitution of India, Art. 309 (July) 220D

Companies Act (1 of 1956), S. 125—Indication of legislative intention as regards winding up—Preservation of property and fair distribution—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 212*—Provision qualifies rule that each company is separate entity—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 214*—Provision qualifies rule that each company is separate entity—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 283 (1) (g)*—Vacation of office—Period should commence from the date of meeting absented from—*See* Delhi Administration Act (19 of 1966), S. 18 (3) (Oct) 295A

—*S. 318*—Provision qualifies rule that each company is separate entity—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 338*—Provision qualifies rule that each company is separate entity—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 441*—Indication of legislative intention as regards winding up—Preservation of property and fair distribution—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 442*—Indication as to intention of Legislature as regards winding up—Preservation of property and fair distribution—*See* Companies Act (1956), S. 443 (Sep) 258

—*Ss. 443, 456 (1A), 442, 441, 531, 536 (2), 125, 212, 214, 318 and 338*—Object of winding up proceeding—Interim orders may even affect persons not parties to the proceeding—Decision of Andley, J. in C. A. No. 192 of 1968, D/- 26-8-68 (Delhi), Affirmed—Main Company holding 52 per cent. of share capital of subsidiary company—Latter not held, part of the former company—Working of subsidiary company cannot be held up on ground that the main company is in financial strain—Working of subsidiary company, if mala fide, different considerations will arise. Decision of Andley, J. in C. A. No. 192 of 1968, D/- 26-8-1968 (Delhi), Reversed (Sep) 258

—*S. 456 (1A)*—Indication as to intention of legislature as regards winding up—Preservation and fair distribution—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 515*—Applicability—*See* Companies Act (1956), S. 524 (Apr) 112

—*Ss. 524, 515 and 647* (as amended in 1960)—Applicability—Winding up subject to

Companies Act (1956) (contd.)

supervision of Court—Removal of liquidator—Power of Court—Liquidator can be removed 'on cause shown' (Apr) 112

—*S. 531*—Indication of legislative intention as regards winding up—Preservation of property and fair distribution—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 536 (2)*—Indication of legislative intention as regards winding up—Preservation of property and fair distribution—*See* Companies Act (1956), S. 443 (Sep) 258

—*S. 647 (as amended in 1960)*—Liquidator can be removed "on cause shown"—*See* Companies Act (1956), S. 524 (Apr) 112

Constitution of India, Art. 1—Transfer of certain territory to Pakistan in pursuance of an award—It is not cession of Indian territory—No alteration in Art. 1 involved—*See* Constitution of India, Art. 368 (Feb) 64B

—*Art. 1 (3)*—Union Territory simply means a territory of the Union—"Delhi" is not "State"—*See* Constitution of India, Art. 309 (Aug) 246A

—*Art. 1 (3) (c)*—Acquisition of territory—Mere possession is not sufficient when Government is uncertain about its title to such territory (Feb) 64D

—*Arts. 12 and 13 and 226*—Words "other authorities" in Art. 12 should not be construed ejusdem generis—Government transferring school managed by them to society registered under Societies Registration Act—Society autonomous body—Society is 'authority' within meaning of Art. 12—School rules, however, are not statutory rules—Obligation under them cannot be enforced by writ (June) 170B

—*Art. 12*—Territory of Delhi is neither "State" nor a "Union Territory"—*See* Constitution of India, Art. 309 (Aug) 246A

—*Art. 13*—Words 'other authorities' in Art. 12 should not be construed ejusdem generis—Society registered under Societies Registration Act is 'authority' within Art. 12—*See* Constitution of India, Art. 12 (June) 170B

—*Art. 14*—Rule 56 of Fundamental Rules is not against safeguard given under Art. 14—*See* Constitution of India, Art. 311 (2) (Jan) 15

—*Art. 14*—Provisions of S. 3 (1) (b) of Prevention of Detention Act 1950 do not violate Art. 14 of the Constitution—*See* Public Safety—Preventive Detention Act (1950), S. 3 (1) (b) (Feb) 45D (FB)

—*Arts. 14, 19*—Income-tax Act (1961), Ss. 131 and 132 (as amended by Act 1 of 1965)—Constitutional validity of S. 132—It is not violative of Art. 14 or 19—AIR 1964 Assam 1 (FB), Dissented from

(Mar) 91N

Constitution of India (contd.)

—*Art. 14* — Sections 5 and 7 of Punjab Public Premises and Land (Eviction and Rent) Recovery Act, 1959, violate *Art. 14* — See Houses and Rents — Punjab Public Premises and Land (Eviction and Rent) Recovery Act (3 of 1959), S. 7 (2) (July) 194

—*Arts. 14, 16 and 309* — Petitioners appointed to ministerial posts under a consolidated service — Temporarily on ad hoc basis, expressly without any right, petitioners made to officiate in executive posts — Petitioners not satisfying requirements of relevant rules for the executive posts — Consolidated service then bifurcated into ministerial and executive wings — Both parallel to each other — Petitioners then absorbed into ministerial cadre — Respondents originally directly recruited to executive posts absorbed in executive service — No discrimination — (Delhi Administration Subordinate Ministerial Executive Service Rules (1967), Rr. 5 and 3) (Aug) 246D

—*Art. 16* — Consolidated cadre — Appointment on ad hoc basis with no rights — Cadre bifurcated into executive and ministerial services — Candidate originally chosen for executive posts transferred to executive service — Rest retained in ministerial service — No discrimination — See Constitution of India, *Art. 14* (Aug) 246D

—*Art. 19* — Search and seizure of documents — Seizure should not be allowed to exceed the limits of absolute necessity — Provisions as to have to be construed in the light of the Article — See Income-tax Act (1961), S. 132 (Mar) 91C

—*Art. 19* — S. 132 of Income-tax Act, 1961 is not violative of the Article. AIR 1964 Assam 1 (FB), Dissented from — See Constitution of India, *Art. 14* (Mar) 91N

—*Art. 19* — Income-tax Act (1961), S. 132 (as amended by Act 1 of 1965) — Information gathered as a result of illegal search and seizure — Admissibility in evidence (Mar) 91O

—*Arts. 19 (1) (a) and (2), 129, 141, 215, 366 (10), 372 and Sch. 7, List 1, Entry 77 and List III, Entry 14* — Fundamental right of freedom of speech and expression — Freedom of press — Extent of — Cannot override law of contempt of Courts — Law of contempt of Court whether statutory or as developed by decisions of Supreme Court and High Courts is not violative of *Art. 19 (1) (a)* but is expressly saved by *Art. 19 (2)* — Expression 'contempt of Court' — Though not statutorily defined is not vague or indefinite (July) 201B (FB)

—*Art. 19 (d)* — Cession of territory which in fact did not belong to India — No viola-

Constitution of India (contd.) — Violation of *Art. 19 (d) and (c)* — See Constitution of India, *Art. 253* (Feb) 64D

—*Art. 22 (5) and (6)* — Some of grounds served on detenu vague and not conveying proper particulars to enable him to make a representation — Detention order is invalid — See Public Safety — Preventive Detention Act (1950), S. 3 (1) (a) and (b) (Feb) 45C (FB)

—*Art. 72* — Tender of pardon — Nature of Act — See Criminal P. C. (1898), S. 401 (Jan) 21B

—*Art. 77* — Provisions are directory and not mandatory — Word 'authenticated' — Meaning of (Oct) 285 (FB)

—*Art. 77 (2)* — Rules under — President's powers delegated to Administrator of Delhi — Authentication by Deputy Secretary is valid — See Constitution of India, *Art. 309* (Aug) 246B

—*Art. 129* — Contempt of Court — Fundamental right of freedom of speech and expression — Freedom of press — Cannot override law of contempt of Courts — Expression 'contempt of Court' — Though not statutorily defined is not vague or indefinite — See Constitution of India, *Art. 19 (1) (a) and (2)* (July) 201B (FB)

—*Art. 133 (1) (c)* — Certificate of fitness — Question of sufficient public or private importance — One vehicle operating on two permits for two routes — Routes passing through two different States — Issue of through tickets to passengers travelling in the vehicle — Question whether issue of through tickets can be prohibited under Motor Vehicles Act (1939) — Construction of S. 48 (3) (xiv) of Motor Vehicles Act (1939) involved — Question is of sufficient private or public importance to justify certificate of fitness for appeal under *Art. 133 (1) (c)* (Feb) 58

—*Art. 134 (1) (c)* — Criminal P. C. (1898), S. 488 — Proceedings under S. 488 are criminal and not civil proceedings — Expression 'criminal proceedings' in *Art. 134* is wide enough to include proceedings under S. 488 (Oct) 298

—*Art. 141* — Law of contempt of Court recognised by Supreme Court — Constitutionality must be upheld — See Constitution of India, *Art. 19 (1) (a) & (2)* (July) 201B (FB)

—*Art. 161* — Tender of pardon — Nature of act — See Criminal P. C. (1898), S. 401 (Jan) 21A (SB)

—*S. 165 (1)* — Search and seizure of documents — Authorised officer is not required to record reasons for — See Income-tax Act (1961), S. 132 (as amended by Act 1 of 1965) (Mar) 91L

Constitution of India (contd.)

—*Art. 166*—Letter of consent issued under S. 6 of Delhi Special Police Establishment Act (1946) by Maharashtra Government—Letter expressed to be made in name of Government of Maharashtra and signed by its Deputy Secretary—Letter of consent held substantially complied with Art. 166 (2) and was valid although it was not made in name of Governor 330H (Nov)

—*Art. 166 (3)*—Rules of business under are statutory rules—*See* Evidence Act (1872), S. 56 (Nov) 330I

—*Art. 215*—*See* Contempt of Courts Act (1952), S. 3

—*Art. 215*—Fundamental right of freedom of speech and expression—Freedom of press—Cannot override law of contempt of Courts—Expression 'contempt of Court'—Though not statutorily defined is not vague or indefinite—*See* Constitution of India, Art. 19 (1) (a) & (2) (July) 201B (FB)

—*Art. 215*—Publication of letter in a pending case marked by Court only for identification—Letter neither proved, nor admitted in evidence nor read out in Court—Held that in view of principle that action for contempt should be taken with caution and deliberation, it was proper to ignore publication of full text of letter in newspaper in peculiar facts of case and benefit of doubt given to accused (July) 201E (FB)

—*Art. 215*—Justification and apology—*See* Contempt of Courts Act (1952), S. 4

(July) 201D (FB)
—*Art. 215*—Publication of Court proceedings—When amounts to contempt of Court—Duty of press-reporters and newspapers pointed out—*See* Contempt of Courts Act (1952), S. 3 (July) 201F (FB)

—*Art. 215*—Complaint for defamation against printer and publisher of newspaper—Accused publishing in their newspaper Court proceedings in such manner as to hamper fair trial of complaint by poisoning public mind against complainant—Accused held were guilty of contempt of Court—Ignorance of law or inability of legal advisers to properly guide their clients though not a mitigating circumstance Court in the circumstances of case gave the contemnors a severe warning—*See* Contempt of Courts Act (1952), S. 3 (July) 201G (FB)

—*Art. 226*—Quasi judicial order—Violation of natural justice—Effect—*See* Constitution of India, Art. 227 (Jan) 1A

—*Art. 226*—Court has discretion under Art. 226 not to order return of document seized in search irregular in law—*See* Criminal P. C. (1898), S. 165 (5) (Jan) 26C

—*Art. 226*—Writ jurisdiction—Scope of—Investigation of question of fact—Kutch

Constitution of India (contd.)

award given by Tribunal appointed by India and Pakistan to decide boundaries—Court cannot consider whether territory awarded to Pakistan was part of Indian territory, by considering mass of evidence before tribunal (Feb) 64A

—*Art. 226*—Nature of writ jurisdiction—Court cannot act as Court of appeal (Mar) 91B

—*Art. 226*—Society registered under Societies Registration Act was handed over management of a Government School by the Government—Society an autonomous body was an 'authority' within Art. 12—School Rules however are not statutory Rules—Obligation under them could not be enforced by writ—*See* Constitution of India, Art. 12 (Jun) 170B

—*Art. 226*—Prohibition, writ of—Statutory body like Metropolitan Council under Delhi Administration Act, 1966—Court will not generally interfere in matters strictly relating to indoor management and conduct of business—Court will however interfere when it acts against mandatory provisions of statute—Proposed motion of cessation of membership of Council at a meeting of Council against provision of S. 18 (3)—Writ restraining Council issued at instance of aggrieved member (Oct) 295B

—*Art. 226*—Natural justice—Order under S. 57 (1), Trade and Merchandise Marks Act (1958)—Requirement of natural justice must be complied—*See* Trade and Merchandise Marks Act (1958), S. 57 (1) (Nov) 324C

—*Art. 226*—Natural justice—Administrative and quasi judicial orders—Registrar discharging functions under Ss. 57 (1), 56 read with S. 44 of Trade and Merchandise Marks Act (1958)—Registrar performs quasi judicial functions—Compliance with natural justice—*See* Trade and Merchandise Marks Act (1958), S. 57 (1) (Nov) 324D

—*Arts. 227, 226*—Natural justice—Violation of—Quasi judicial order—Application for reference under S. 21 (1), Bengal Finance (Sales Tax) Act, 1941, without court-fee stamp—Copy of order challenged not enclosed—Application entertained by oversight but subsequently rejected ex parte—Principles of natural justice as to right of audi alteram partem violated—Case fit for interference by High Court under Art. 227 (Jan) 1A

—*Art. 239*—Art. 239 provides for administration for territories which are neither "State" nor "Union Territories"—*See* Constitution of India, Art. 309 (Aug) 246A

—*Art. 245*—Delegated legislations—When power is given to a Subordinate Authority to legislate conditionally and the conditions.

Constitution of India (contd.)

have been fulfilled, the legislation becomes absolute — *See* Civil P. C. (1908), S. 121

(May) 142A

—*Art. 245*—Absence of guidance amounts to excessive delegation — *See* Municipalities — Delhi Municipal Corporation Act (1957), S. 113 (2) (d) (May) 159D

—*Art. 245*—Territorial extent — Extension of Punjab Pre-emption (Amendment) Act (1960) to Himachal Pradesh is valid — *See* Union Territories (Laws) Act (1950), S. 2

(Sep) 267

—*Art. 245* — S. 3 of Delhi Special Police Establishment Act (1946) (as amended in 1952) is not invalid on ground of excessive delegation by Parliament to Central Government — *See* Delhi Special Police Establishment Act (25 of 1946) (as amended by Amendment Act 26 of 1952), S. 3

(Nov) 330D

—*Arts. 253, 19 (d) and (e), Schedule VII, List 1, Entry 14*—Scope of Art. 253 — Treaty made by India Government with Pakistan to abide by decision of Tribunal respecting boundary dispute — Implementation of award by Executive is valid — Legislation not necessary (Feb) 64D

—*Art. 258 (1)* — President can authorize Administrator of Delhi to make rules under Proviso to Art. 309 for central services in Delhi—*See* Constitution of India, Art. 309

(Aug) 246A

—*Art. 258 (1)*—Power to issue declaration under S. 6 Land Acquisition Act (1894) — Powers of Central Government delegated to State Government: vide Notfn. No. F 26 (5)/67/J II D/- 20-2-57 — *See* Land Acquisition Act (1894), S. 6

(Oct) 279C

—*Art. 309* — Defence personnel — Fall within scope of Art. 309 — *See* Constitution of India, Art. 311 (Jul) 220A

—*Art. 309, Proviso* — Regulations for the Medical Services of the Army in India, Paras 399, 427, 428 — Regulations are not made under Art. 309, Proviso—Termination of services of Government servant on ground of physical unfitness under Rules—Not lawful (Jul) 220D

—*Arts. 309, 258 (1), 367 (1), 372, 372-A, 1 (3), 12 and 239*—Rule-making power under Art. 309 — Scope — Delhi is not 'State'—Power of President to make rules for Central services in Delhi — Power available under proviso to Art. 309 — Similar power available for Administrator of Delhi

(Aug) 246A

—*Arts. 309 Proviso, 77 (2) and Rules under*—President's power under Art. 309 proviso to make rules for Central services in Delhi—Power delegated by him to Administrator of Delhi — Order of delegation authenticated

Constitution of India (contd.)

by Deputy Secretary — Authentication in accordance with Rules under Art. 77 (2) — Authentication valid — Validity not questionable on the ground of not being an order or instrument made by President

(Aug) 246B

—*Art. 309*—Consolidated cadre—Appointment on ad hoc basis with no rights — Cadre bifurcated into executive and ministerial services—Candidate originally chosen for executive post transferred to executive service—Rest retained in ministerial service — No discrimination — *See* Constitution of India, Art. 14 (Aug) 246D

—*Art. 310* — Defence personnel — Fall within scope of Art. 310 — *See* Constitution of India, Art. 311 (July) 220A

—*Art. 311* — Reasonable opportunity to show cause does not necessarily include a right to be specifically and expressly granted time to produce evidence in defence even when a delinquent does not choose to ask for (May) 145A

—*Art. 311*—Departmental enquiry — Petitioner demanding inspection of certain documents—Relevant documents furnished — Prayer for irrelevant documents disallowed—Petitioner not shown to be prejudiced—Enquiry not vitiated (May) 145B

—*Art. 311* — Show-cause notice issued by officer not authorised to do so — Subsequent show-cause notice against punishment of dismissal issued by authorised officer—Full opportunity to petitioner to put forward his defence afforded—No illegality (May) 145C

—*Art. 311* — Abolition of permanent post — Article is not attracted — Even notice is not required: A I R 1965 J & K 15 (FB), Diss. from — School run by Government transferred to society registered under Societies Registration Act—Society an autonomous body — Some members of Board of Society, Govt. nominated — Society is not department of Govt. — Services of petitioner who was employee of school continued by Board after termination by Govt. — He does not remain a Govt. servant

(Jun) 170A

—*Arts. 311, 309 and 310*—Applicability of Art. 311 — Person holding post connected with defence—Article does not apply (July) 220A

—*Art. 311*—Reversion—Official communication dealing with fitness of employee to hold post—Disclosure if harmful to proper functioning of service should not be allowed — *See* Evidence Act (1872), S. 123

(Aug) 246E

—*Arts. 311 (2), 14* — Fundamental Rules, R. 56—Age of superannuation raised to 58—Compulsory retirement under R. 56 (j)

Constitution of India (contd.)

beforehand is not invalid — Rule 56 is not against safeguard given under Art. 14 — Compulsory retirement does not amount to removal or dismissal — What is “public interest” explained (Jan) 15

—*Art. 311 (2)* — Appointments expressly on ad hoc and temporary basis to officiate in posts — Appointments not satisfying requirements of relevant rules — Administrative instructions to officers requiring ad hoc appointments not to exceed three months’ term — Yet those employees allowed to continue beyond such term — Under newly framed Rules, employees reverted or discharged — *Art. 311 (2)* not applicable — (Delhi Administration Subordinate Ministerial Executive Service Rules (1967), Rr. 3 and 5) (Aug) 246

—*Art. 366 (10)* — Existing law — Contempt of Courts Act — *See* Constitution of India, Art. 19 (1) (a) and (2) (Jul) 201B (FB)

—*Art. 367 (1)* — Existing definition of State in S. 3 (58) (b) of General Clauses Act (1897), not to be used in interpreting Constitution — *See* Constitution of India, Art. 309 (Aug) 246A

—*Arts. 368 and 1* — Dispute regarding boundaries between India and Pakistan — Reference to Tribunal by both countries — Transfer of certain territory to Pakistan in pursuance of award — It is not cession of Indian territory — No alteration in Art. 1 involved — Constitutional amendment under Art. 368 not necessary (Feb) 64B

—*Art. 372* — Law of Contempt of Court is expressly saved by Art. 19 (2) — *See* Constitution of India, Art. 19 (1) (a) and (2) (Jul) 201B (FB)

—*Art. 372* — “State” as defined in S. 3 (58) (b), General Clauses Act (1897) — Definition accepted under Art. 372 — Use only to interpret States of A, B and C categories — *See* Constitution of India, Art. 309 (Aug) 246A

—*Art. 372A* — Definition of State in S. 3 (58) (b), General Clauses Act as adapted under Art. 372-A not applicable for interpreting Constitution — *See* Constitution of India, Art. 309 (Aug) 246A

—*Art. 372-A, Sch. 7, List I, Entry 80 (as amended by Constitution (7th Amendment) Act, 1956)* — Delhi Special Police Establishment Act (1946), S. 2 — Substitution of words “Union Territories” for words “Part C States” by Adaptation of Laws Order (3 of 1956) — Does not bring Act of 1946 into conflict with entry 80 (Nov) 330C

—*Sch. VII, List I, Entry 3* — Provision of S. 3 (1) (b) of Preventive Detention Act 1950 is not ultra vires the legislature — *See* Public Safety — Preventive Detention Act (1950), Ss. 3 (1) (a) and (b) (Feb) 45B (FB)

Constitution of India (contd.)

—*Sch. VII, List I, Entry 14* — Treaty making and implementation of treaty fall under Entry 14, List I — *See* Constitution of India, Art. 253 (Feb) 64D

—*Sch. 7, List I Entry 77* — Law of contempt of Court is not beyond competency of Parliament — *See* Constitution of India, Art. 19 (1) (a) and (2) (July) 201B (FB)

—*Sch. 7, List I, Entry 80* — Government of India Act (1935), Sch. 7, List I, Entry 39 — Expression “belonging to” — Interpretation of — It means “constituted in and functioning in” — Delhi Special Police Force falls within the expression — Force can function under Delhi Special Police Establishment Act (1946) (Nov) 330A

—*Sch. 7, List I, Entry 80* — Delhi Special Police Establishment Act (1946) (as amended by Act 26 of 1952) — Substitution of words “in Delhi” for the words “for the State of Delhi” by Amending Act — Does not make Act unconstitutional (Nov) 330B

—*Sch. 7, List I, Entry 80 (as amended by Constitution (7th Amendment) Act, 1956)* — Delhi Special Police Establishment Act (1948) is not in conflict with Entry 80 — *See* Constitution of India (as amended by Constitution (7th Amendment) Act 1956), Art. 372-A (Nov) 330C

—*Sch. VII, List III, Entry 9* — Provision of S. 3 (1) (b) of Preventive Detention Act is not ultra vires the legislature — *See* Public Safety — Preventive Detention Act (1950), S. 3 (1) (a) and (b) (Feb) 45B (FB)

—*Sch. 7, List III, Entry 14* — Law of Contempt of Court is not beyond the competence of legislature, Central or State — *See* Constitution of India, Art. 19 (1) (a) and (2) (July) 201B (FB)

Contempt of Courts Act (32 of 1952), Ss. 1 and 3 — Party initiating proceedings for contempt for the purpose of securing the execution of Court’s order for its benefit — Such a resort should be discouraged — Order by Court directing Municipality to demolish certain premises — Partial demolition carried out — Contempt proceedings against Municipality to compel it to demolish the whole structure so that the tenants of the complainant could be evicted — Tendency deprecated (May) 137C

—*S. 1* — Fundamental right of freedom of speech and expression — Freedom of press — Cannot override law of Contempt of Courts — *See* Constitution of India, Art. 19 (1) (a) and (2) (July) 201B (FB)

—*Ss. 1, 4* — Person not directly interested in case approaching Magistrate in his chambers after Court hours and asking him to accept bail on behalf of accused — On Magistrates’s refusal, person threatening

Contempt of Courts Act (contd.)

Magistrate by show of his wealth, to teach him a lesson—It is interference with administration of justice and amounts to contempt of Court—Contemner, considering his age was administered warning and was ordered to pay costs (July) 214A (SB)

—S. 1—Letter to superior Court asking it to see and verify as to real situation in cases pending before lower Court—On facts, held, contempt proceedings were not warranted—Discouraging approach to superior Court with request to scrutinise proceedings pending before lower Court, held, not commendable (Oct) 291A

—S. 1—Contempt proceedings, nature of—Duty of Court pointed out (Oct) 291B

—S. 1—Matter in revision petition amounting to contempt of Court—Petition drafted and signed by lawyer and also by petitioner—Opposite party cannot claim as of right that the petitioner should not be heard till he purges his contempt—See Criminal P. C. (1898), S. 439 (Oct) 304A

—Ss. 1 and 3—Power of High Court to punish contempts—Power to be used sparingly—When can be used against professional lawyers (Oct) 304B

—Ss. 1, 3—Scandalizing the Court—Private communications with Judges touching upon merits of case—Such communications undermine respect of people for laws and Courts (Nov) 319A

—S. 3—Jurisdiction of High Court—Process when can be resorted to—Proceedings on application of litigating party—Inherent powers not to be invoked—Duty of High Court—(C. P. C. (1908), S. 151) (Jan) 6

—S. 3—Disobedience of orders of Court—Knowledge of such order by contemner has to be proved beyond all reasonable doubt—Benefit of doubt should be given to contemner (May) 137A

—S. 3—Disobedience of orders of Court—Action should be taken only when it is called for in the interest of justice—Allowance has to be made for errors of judgment—Deliberate lapse and contumacious conduct ought to be punished (May) 137B

—S. 3—Disobedience of orders of Court—Action should be taken only when called for in the interests of justice—See Contempt of Courts Act (1952), S. 1 (May) 137C

—S. 3—Action for contempt—Duty of Court (June) 169 (FB)

—Ss. 3, 4—Contempt of Court by one person—Another person taking entire responsibility for offence and expressing unqualified regrets—Is no ground for absolving former—Applicability of rule to editor and correspondent of newspaper

(July) 201A (FB)

Contempt of Courts Act (contd.)

—S. 3—Fundamental right of freedom of speech and expression—Freedom of press—Cannot override law of Contempt of Courts—See Constitution of India, Art. 19 (1) (a) and (2) (July) 201B (FB)

—S. 3—Contempt of Court—Interference with course of justice—Likelihood and not actual interference is essential

(July) 201C (FB)

—Ss. 3 and 4—Benefit of doubt—Publication of letter in a pending case marked by Court only for identification—Letter neither proved, nor admitted in evidence nor read out in Court—Held that in view of principle that action for contempt should be taken with caution and deliberation, it was proper to ignore publication of full text of letter in newspaper in peculiar facts of case and benefit of doubt given to accused

(July) 201E (FB)

—S. 3—Publication of Court proceedings—When amounts to contempt of Court—Duty of press-reporters and newspapers pointed out

(July) 201F (FB)

—Ss. 3 and 4—Complaint for defamation against printer and publisher of newspaper—Accused publishing in their newspaper Court proceedings in such manner as to hamper fair trial of complaint by poisoning public mind against complainant—Accused held were guilty of contempt of Court—Ignorance of law or inability of legal advisers to properly guide their clients though not a mitigating circumstance Court in the circumstances of case gave the contemnors a severe warning

(July) 201G (FB)

—S. 3—Power of High Court to punish contempts—Power to be used sparingly—When can be used against professional lawyers—See Contempt of Courts Act (1952), S. 1 (Oct) 304B

—S. 3—Power of High Court to punish for contempt is to safeguard dignity of Court—See Contempt of Courts Act (1952), S. 1 (Nov) 319A

—S. 3—Rent Control Tribunal is Court subordinate to High Court (Nov) 319B

—S. 3 (2)—Held on facts that the section was no bar to jurisdiction of High Court to punish contempt of subordinate Court

(July) 214D (SB)

—S. 4—Contempt of Court by one person—Another person taking entire responsibility for offence and expressing unqualified regrets—Is no ground for absolving former—Applicability of rule to editor and correspondent of newspaper—See Contempt of Courts Act (1952), S. 3 (July) 201A (FB)

—S. 4—Justification and apology

(July) 201D (FB)

Contempt of Courts Act (contd.)

—S. 4.—Publication of letter in a pending case marked by Court only for identification—Letter neither proved, nor admitted in evidence nor read out in court—Held that in view of principle that action for contempt should be taken with caution and deliberation, it was proper to ignore publication of full text of letter in newspaper in peculiar facts of case and benefit of doubt given to accused (July) 201E (FB)

—S. 4.—Complaint for defamation against printer and publisher of newspaper—Accused publishing in their newspaper Court proceedings in such manner as to hamper fair trial of complaint by poisoning public mind against complainant—Accused held were guilty of contempt of Court—Ignorance of law or inability of legal advisers to properly guide their clients though not a mitigating circumstance court in the circumstances of case gave the contemnners a severe warning—See Contempt of Courts Act (1952), S. 3 (July) 201G (FB)

—S. 4.—Contemner considering his age was administered warning and was ordered to pay costs—See Contempt of Courts Act (1952), S. 1 (July) 214A (SB)

—S. 4.—Apology—The alleged apology held to be no apology (July) 214C (SB)

—S. 4.—Petition drafted and signed by lawyer and also by petitioner amounting to contempt of Court—Opposite party cannot claim as of right that the petitioner should not be heard till he purges his contempt—See Criminal P. C. (1898), S. 439 (Oct) 304A

Contract Act (9 of 1872), S. 58—Pledge, mortgage and sale distinguished—See Contract Act (1872), S. 172 (Nov) 313

—S. 73—Liability of tenant for holding over is limited to payment of mesne profit—See Transfer of Property Act (4 of 1882), S. 116 (Feb) 59

—S. 172—Pledge, mortgage and sale distinguished—In the absence of a contract to the contrary, the pawnee has no right to the accretions to the goods pledged (Nov) 313

—S. 176—Pledge, mortgage and sale distinguished—See Contract Act (1872), S. 172 (Nov) 313

Court-fees Act (7 of 1870)

See under Court-fees and Suits Valuations.

COURT FEES AND SUITS VALUATIONS

—**Court-fees Act (7 of 1870)** Pre—Interpretation of the Act should be liberal (May) 130B

—S. 13—Return of plaint for proper presentation to competent Court of another State—Court-fee stamp purchased in former State can lawfully be received in Court in latter State (May) 130C

Court-fees and Suits Valuations — Court-fees Act (contd.)

—Ss. 26, 27 (b) — Rules under, framed by Delhi Government and notified on 29-3-1954 are ultra vires its rule-making power — Insistence on exclusive use of stamp with name of Delhi State printed over it is illegal (May) 130A

—S. 27 (b) — Rules under framed by Delhi Govt. and notified on 29-3-1954 are ultra vires its rule making power—See Court-fees and Suits Valuations—Court Fees Act (1870) S. 26 (May) 130A

—Sch. I, Art. 1 — Judgment— Meaning of explained—See Delhi High Court Act (1966), S. 10 (Mar) 85C (FB)

—Sch. II Art. 11—Judgment—Meaning of, explained—See Delhi High Court Act (1966), S. 10 (Mar) 85C (FB)

Criminal Law Amendment Act (46 of 1952), S. 7 (1)—Special Judge — Jurisdiction of, is exclusive only as to trial of an offence — See Criminal P. C. (1898), S. 165 (5) (Jan) 26D

—S. 8—Section does not confer exclusive jurisdiction on special Judge in regard to taking cognizance of a case — See Criminal P. C. (1898), S. 165 (5) (Jan) 26D

Criminal Procedure Code (5 of 1898), S. 100—Power to issue search warrant—Magistrate must have reason to believe that confinement amounts to offence—Mother's custody of her child under five years of age—Does not constitute "confinement" amounting to an offence under S. 100, Criminal P. C. (Oct) 304C

—S. 103—Information gathered as a result of illegal search and seizure — Admissibility in evidence — See Constitution of India, Art. 19 (Mar) 910

—Ss. 107, 112, 537 — Order under S. 112 is condition precedent for proceeding under S. 107 (Oct) 304E

—S. 112—Order under S. 112 is condition precedent for proceeding under S. 107 — See Criminal P. C. (1898), S. 107 (Oct) 304E

—S. 117 (3)—Interim order for security—Order should no be mechanically passed by merely relying on police report (Jan) 12

—S. 165 (1)—Object and scope of—Provisions are directory and not mandatory—But this does not give police officer discretion to fulfil or not to fulfil its requirement — Requirements have to be fulfilled substantially — Held that there was substantial compliance with the requirements—That the documents for which search was made were "said to be" in possession of petitioner at his factory premises, is reason for belief that the documents may be found in the places mentioned (Jan) 26A

Criminal P. C. (contd.)

—S. 165 (1)—The police officer is required to record only the grounds for his belief that the thing may be found in any place and the thing for which search is to be made—Place where search has to be made need not be mentioned (Jan) 26B

—S. 165 (5) — Provision is directory even though word used is "shall" — But this does not give discretion to police officer—Record under sub-s. (3) sent after completion of search — Search is irregular in law — Effect of irregular search pointed out — Court has discretion under Art. 226 of the Constitution not to order return of document seized (Jan) 26C

—Ss. 165 (5), 190—Record under S. 165 (1) sent to magistrate having jurisdiction to take cognizance and not to Special Judge having exclusive jurisdiction to try offence though Special Judge could also take cognizance—There is compliance with S. 165 (5) (Jan) 26D

—S. 165 (5) — Investigation under S. 132, Income-tax Act, 1961—Not in the nature of investigation into any offence — See Income Tax Act (1961), S. 132 (Mar) 91M

—S. 190—Taking cognizance — Jurisdiction of Special Judge is not exclusive — See Criminal P. C. (1898), S. 165 (5) (Jan) 26D

—S. 197 — Drivers of State-owned transport — Traffic violations by—Prosecution of General Manager — Prior sanction of Government under S. 197 necessary (Oct) 291D

—S. 198-B — Provisions of, are not *pari materia* with those of S. 20, Prevention of Food Adulteration Act, 1954. A I R 1963 Orissa 158, Dissented from—See Prevention of Food Adulteration Act (1954), S. 20 (as it stood prior to amendment by Act 49 of 1964) (July) 198B

—Ss. 337, 338, 339 and 435—Revision order tendering pardon either under S. 337 or S. 338 is not revisable by High Court under S. 435 — Provision under S. 337 (1-A) does not convert order into a judicial act (Jan) 21A

—S. 337—Tender of pardon—Nature of act — See Criminal P. C. (1898), S. 401 (Jan) 21B

—S. 337—Exercise of power under — No revision under S. 435 lies—See Criminal P. C. (1898), S. 338 (Jan) 21E

—Ss. 337 (1) and 338 — Stage at which pardon can be tendered—High Court ordering that the accomplice be committed and tried along with other accused — Tender of pardon to accomplice during Sessions trial, held, could not be said to nullify High Court's orders— No limit is placed on the stage of the trial after which a tender of pardon may not be made (Jan) 21C

—Ss. 337 (1) and 338 — Evidence of an accomplice—Credibility of (Jan) 21D

Criminal P. C. (contd.)

—S. 338— Order under in revision — Not revisable by High Court under S. 435 — See Criminal P. C. (1898), S. 337 (Jan) 21A

—S. 338 — Tender of pardon — Nature of act—See Criminal P. C. (1898), S. 401 (Jan) 21B

—S. 338 — Stage at which pardon can be tendered — See Criminal P. C. (1898), S. 337 (1) (Jan) 21C

—S. 338—Delay in tendering pardon—Evidence of an accomplice — Credibility — See Criminal P. C. (1898), S. 337 (1) (Jan) 21D

—Ss. 338, 337 and 435 — Scope — Exercise of power under S. 338 — No revision under S. 435 lies (Jan) 21E

—S. 339—Revision order tendering pardon either under S. 337 or S. 338 not revisable by High Court under S. 435 — See Criminal P. C. (1898), S. 337 (Jan) 21A

—S. 339 (2)—Proceeding against the accomplice (Jan) 21F

—S. 344—Hearing, fixing of date — Professional pre-occupation of counsel not conclusive—Duty of Bar—See Civil P. C. (1908), O. 17, R. 1 (Sep) 263B

—S. 367 — Appreciation of evidence — Motor accident compensation case—See Evidence Act (1872), S. 5 (June) 183A

—S. 397 (1) — Conviction of accused in two separate trials—Sentence in subsequent trial can be ordered to run concurrently with previous one. AIR 1925 Lah 334, Dissented from (May) 133

—Ss. 401, 402, 337, 338—Scope and object of the sections — Tender of pardon—Nature of the act (Jan) 21B

—S. 402—Tender of pardon—Nature—See Criminal P. C. (1898), S. 401 (Jan) 21B

—S. 435—Revision order tendering pardon either under S. 337 or S. 338—Not revisable by High Court under this section — See Criminal P. C. (1898), S. 337 (Jan) 21A

—S. 435—Exercise of power under S. 338 — No revision under the section lies — See Criminal P. C. (1898), S. 338 (Jan) 21E

—S. 439— Revisional jurisdiction—Object — Matter in revision petition amounting to contempt of Court — Petition drafted and signed by lawyer and also by petitioner — Opposite party cannot claim as of right that the petitioner should not be heard till he purges his contempt (Oct) 304A

—S. 488—S. 488 is general law not affected by Hindu Adoptions and Maintenance Act (1956)—Extent of S. 488—See Hindu Adoptions and Maintenance Act (1956), S. 20 (Aug) 235C

—S. 488—Proceedings under are criminal proceedings—See Constitution of India, Article 134 (1) (c) (Oct) 29S

Criminal P. C. (contd.)

—S. 488 (1)—Scope and applicability — Word “child” in S. 488: (1) means immediate issue or off-spring of a parent — Age is not a relevant consideration. AIR 1914 Mad 594 and AIR 1935 Cal 488 and AIR 1922 Nag 249 (1) and AIR 1949 Bom 36 and AIR 1950 Mad 394 and (1964) 2 Mad L.J. 70 and AIR 1967 Mad 77 and AIR 1961 Ker 297, Dissented from (Aug) 235A

—S. 488 (1) — Word “maintenance” — Covers cost of College education till child is old enough to earn his living — Word maintenance is not open to restricted meaning — Case law discussed—(Civil P. C. (1908), Preamble—Interpretation of Statutes) — (Words and phrases — “Maintenance”) (Aug) 235B

—S. 499—Consideration of bail bond after Court hours—Duty of Magistrate

(July) 214B (SB)

—S. 516-A — Prosecution under S. 235, Penal Code — Destruction of articles before disposal of case, fatal to the prosecution case — See Penal Code (1860), S. 235 (Nov) 315A

—S. 517—Prosecution under S. 235, Penal Code — Destruction of articles before disposal of case, fatal to the prosecution case — See Penal Code (1860), S. 235 (Nov) 315A

—S. 523—Customs Act (1962), S. 115 — Seizure of property by Customs Officer — Application for return of, before starting criminal prosecution—S. 523, Criminal P. C., will not apply — Expression “Police officer” in S. 523 — Interpretation of — Customs Officer is not a Police Officer (Oct) 301A

—S. 526—Reasonable apprehension — Depends on peculiar incidents and circumstances of each case (May) 150A

—S. 526—Words used and opinions expressed by Magistrate — If cause reasonable apprehension depends on facts of each case (May) 150B

—S. 526—Object of—Duty of Court—Cases should not be transferred lightly

(May) 150C

—S. 526—Grounds for transfer — Court's disinclination to adjourn to a date convenient to counsel — Court's remark about the party's delaying tactics—By themselves, held, could not sustain the prayer for transfer

(Sep) 263A

—S. 528 (8)—On first intimation that accused desires to apply for transfer of the case, the Magistrate must adjourn case for such period as would afford sufficient time

for transfer application to be made and an order to be obtained thereon — Fifteen days is ordinarily considered as reasonable time—High Court Rules and Orders — Delhi High Court Rules and Orders, Vol. III, Chap. 26A, Para 12 (May) 150D

—S. 537—Non-compliance with S. 112,

Criminal P. C. (contd.)

Criminal P. C.—Order under S. 107 can be quashed—See Criminal P. C. (1898), S. 107

(Oct) 304E

—S. 561-A—Inherent powers—Exercise of (Oct) 301B

Customs Act (52 of 1962), S. 115—Seizure of property by Customs Officer—Application for its return filed before prosecution—Section 523, Criminal P. C., not applicable—See Criminal P. C. (1898), S. 523 (Oct) 301A

DEBT LAWS

—Punjab Relief of Indebtedness Act (7 of 1934), S. 30 (1)—Determination of double amount under S. 30 (1) — Future interest awarded by Court at the time of passing of a mortgage decree, cannot be taken into consideration (Oct) 289

Delhi Administration Act (19 of 1966), S. 18 (3)—Interpretation of—Cessation of membership—Absence of member from all meetings of Council without permission for a period of six successive months—Period of six months starts from date of meeting from which member was absent and not from date on which he last attended meeting

(Oct) 295A

Delhi Administration Subordinate Ministerial Executive Service Rules (1967)

See under Civil Services.

Delhi High Court Act (26 of 1966), S. 7—Scope and object—Section does not exclude applicability of law in force with respect to practice and procedure in Courts subordinate to Delhi High Court (May) 142B

—S. 10—Civil P. C. (1908), S. 2 (9)—Judgment—Meaning of judgment in Civil P. C., not helpful in ascertaining meaning of ‘judgment’ in S. 10 (Mar) 85A (FB)

—S. 10—Judgment—Meaning of explained—See Letters Patent (Lahore), Cl. 10

(Mar) 85B (FB)

—S. 10 — Court-fees Act (1870), Sch. I, Art. 1, Sch. II, Art. 11—Judgment of Single Bench is appealable under S. 10—Determination of court-fee on appeal—“Judgment” meaning of explained (Mar) 85C (FB)

Delhi High Court Rules and Orders

See under High Court Rules and Orders.

Delhi Municipal Corporation Act (66 of 1957)

See under Municipalities.

Delhi Municipal Corporation (Validation of Electricity Tax) Act (35 of 1966)

See under Municipalities.

Delhi Rent Control Act (59 of 1958), & Rules 1958

See under Houses and Rents.

Delhi Special Police Establishment Act (25 of 1946), S. 1—Delhi Special Police Force can function under the Act—See Constitution of India, Sch. 7, List I, Entry 80 (Nov) 330A

Delhi Special Police Establishment Act (contd.)

—S. 1—Act is not unconstitutional — See Constitution of India, Sch. 7 List I, Entry 80. (Nov) 330B

—S. 3 (as amended by Amendment Act 26 of 1952)—Provision is not invalid on ground of excessive delegation by Parliament to Central Government (Nov) 330D

—S. 3 (as amended by Act 26 of 1952)—See General Clauses Act (1897), S. 8 (Nov) 330F

—S. 5 (as amended by Act 26 of 1952)—Power of investigation of offence — Offence committed outside Union territories can be investigated (Nov) 330E

—S. 6 (as amended by Act 26 of 1952)—See General Clauses Act (1897), S. 8 (Nov) 330F

—S. 6 — Consent of State Government under—Provisions of Bombay Police Act (22 of 1951) cannot operate as a bar to giving of consent (Nov) 330G

—S. 6—Letter of consent under—Compliance with Art. 166 of Constitution—See Constitution of India, Art. 166 (1) (2) and (3) (Nov) 330H

Evidence Act (1 of 1872), S. 3—Proved — Appreciation of evidence — See Trusts Act (1882), S. 19 (Mar) 75E

—S. 5 — Information gathered as a result of illegal search and seizure — Admissibility in evidence — See Constitution of India Art. 19 (Mar) 910

—S. 5 — Appreciation of evidence — Interested witness — Claim for compensation in motor accident case (Jun) 183A

—S. 25 — Custom Officer not a Police Officer within meaning of S. 25 — See Criminal P. C. (1898), S. 523 (Oct) 301A

—Ss. 56, 57, 62, 63 — Rules of Business made under Art. 160 (3) of Constitution are statutory Rules — Judicial notice has to be taken of the Rules — Certified copies of the Rules are admissible in evidence (Nov) 330I

—S. 57—See Evidence Act (1872), S. 56 (Nov) 330I

—S. 62 — See Evidence Act (1872), S. 56 (Nov) 330I

—S. 63—See Evidence Act (1872), S. 56 (Nov) 330I

—Ss. 101-104 — Suit for rendition of accounts against trustee — Death of trustee — Liability and duty of legal representatives of deceased trustee — Burden of proof to show that monies were due from deceased is on the plaintiff — See Trusts Act (1882), S. 19 (Mar) 75D

—Ss 101 to 104 — Claim for compensation under Motor Vehicles Act—Burden of proof — Shifting of onus—See Motor Vehicles Act (1939), S. 110-A (Jun) 183E

Evidence Act (contd.)

—S. 114, Illustration (e) — Order of Magistrate assailed in revision under S. 439, Criminal P. C. (1898) — Presumption of legality of order is not conclusive (Oct) 304D

—Ss. 123 and 124 — Privileged documents — Government employee challenging his reversion from officiating post—Employee's fitness for such post — Consideration by authorities — Employee seeking production of documents (Aug) 246E

—S. 124 — Official communication — Privilege — Non-disclosure necessary for proper functioning of service — Production not ordered—See Evidence Act (1872), S. 123 (Aug) 246E

Fatal Accidents Act (13 of 1855)—Special and General law — Relative scope of two Acts — See Motor Vehicles Act (1939), Ss. 110 to 110-F (June) 183C

—S. 1-A — Motor accident — Duty and liability of driver and conductor of public motor vehicle — See Motor Vehicles Act (1939), S. 110-A (June) 183B

—S. 1-A — Compensation for motor accident — Claim under Motor Vehicles Act—Criterion to determine just compensation — See Motor Vehicles Act (1939), S. 110-B (June) 183D

—S. 2 — Claim for compensation under Motor Vehicles Act — Determination of — Decisions under Fatal Accidents Act how far useful — See Motor Vehicles Act (1939), S. 110-B (June) 183D

Fundamental Rules

See under Civil Services.

General Clauses Act (10 of 1897), S. 3 (8) (b) — Notification expressed in name of Central Government — It is as good as in name of President—See Constitution of India, Art. 77 (Oct) 285(FB)

—S. 3 (58) (b) — Definition of "State" not applicable to Delhi — See Constitution of India, Art. 309 (Aug) 246A

—S. 3 (58) (b) — Substitution of words "Union Territories" for words "Part C States" by Adaptation of Laws Order (1956)—Effect — See Constitution of India (as amended by Constitution (7th Amendment) Act, 1956), Art. 372-A (Nov) 330C

—S. 8 — Applicability — Delhi Special Police Establishment Act (25 of 1946) (as amended by Act 26 of 1952), Ss. 3 and 6 — Consent of Maharashtra State to Delhi Special Police Establishment for investigation of offences specified in the Notification of Government of India issued under S. 3 — Notification repealed and a new one in supersession of it issued—Consent continues to be valid (Nov) 330F

Government of India Act (1935) (25 Gao. V & 1 Edw. VIII, C 2), Sch. 7, List I, Entry 39—Expression "belonging to"—Meaning—See Constitution of India, Sch. 7, List I, Entry 80 (Nov) 330A

Government of Union Territories Act (20 of 1956), S. 2 (1) (b)—Delhi not included in definition of "Union Territories"—See Constitution of India, Art. 309 (Aug) 246A

—S. 55—Administration of Delhi—No powers to enter contracts or to file suits in its own name—See Constitution of India, Art. 309 (Aug) 246A

Guardians and Wards Act (8 of 1890), S. 17—Custody of minor—Welfare of child is paramount—See Hindu Marriage Act (1955), S. 26 (Oct) 283

HIGH COURT RULES AND ORDERS

—Delhi High Court Rules and Orders, Vol. 3, Ch. 11-E—Prosecution under S. 235, Indian Penal Code—Destruction of articles before disposal of case, fatal to the prosecution case—Destruction violates mandatory provisions in Vol. 3, Ch. 11-E—See Penal Code (1860), S. 235 (Nov) 315A

—Vol. 3, Chap. 26-A, Para 12—Transfer of case—Application for by accused—Magistrate must adjourn case for such period as would afford sufficient time for transfer application to be made and obtaining order thereon—Fifteen days is ordinarily considered as reasonable time—See Criminal P. C. (1893), S. 523 (S) (May) 150D

Hindu Adoptions and Maintenance Act (78 of 1956), S. 3 (b)—Liability to maintain children is only during minority—See Hindu Adoptions and Maintenance Act (1956), S. 20 (Aug) 235C

—S. 4 (b)—S. 4 (b) does not repeal S. 483, Criminal P. C.—See Hindu Adoptions and Maintenance Act (1956), S. 20 (Aug) 235C

—Ss. 20, 3 (b) and 4 (b)—Scope—Criminal P. C. (1893), S. 483—S. 483 is not impliedly repealed by S. 20 of former Act (Aug) 235C

Hindu Marriage Act (25 of 1955), S. 26—Petition by wife in the course of proceedings for judicial separation for custody of male child below 5 years—Petition is governed by the Hindu Minority and Guardianship Act and custody shall ordinarily be with mother unless welfare of child demanded otherwise (Oct) 283

Hindu Minority and Guardianship Act (32 of 1956), S. 2—Petition for judicial separation under S. 26, Hindu Marriage Act (1955)—Custody of minor child aged five—Ordinarily custody shall be with mother—See Hindu Marriage Act (1955), S. 26 (Oct) 283

—S. 6—Custody of minor child should

Hindu Minority and Guardianship Act (contd.) be with mother—See Hindu Marriage Act (1955), S. 26 (Oct) 283

—S. 6—Mother's custody of her child under five years of age—Does not constitute "confinement" amounting to an offence under S. 100, Criminal P. C.—See Criminal P. C. (1893), S. 100 (Oct) 304C

—S. 13—Unless welfare of child so demands custody shall be with mother—See Hindu Marriage Act (1955), S. 26 (Oct) 283

Hindu Succession Act (30 of 1956), S. 14 (2)—Acquisition under decree—What amounts to—Decree should be source of title (Oct) 273

HOUSES AND RENTS

—Delhi Rent Control Act (59 of 1955), S. 14—Orders of Additional Rent Controller refusing to record compromise in proceeding under the section—Not appealable order under O. 43, R. 1 (m), Civil P. C.—See Civil P. C. (1903), O. 23, R. 3 (Jan) 7

—S. 35—Notification appointing controllers—Promulgation by Central Government—Notification signed by Under-secretary but not expressed in name of President—Notification is valid—See Constitution of India, Art. 77 (Oct) 285 (FB)

—S. 36—Rent Controller under the Act has not been conferred with all the powers of a Civil Court under Civil P. C.—He has been conferred with only those powers as enumerated in this section—Recording of a compromise in proceedings under S. 14 is not one of them—See Civil P. C. (1903), O. 23, R. 3 (Jan) 7

—S. 37—Though Rent Controller has not been conferred with all the power of a Civil Court under the Civil P. C., he has to follow the practice and procedure of a Small Cause Court as prescribed in Civil P. C.—See Civil P. C. (1903), O. 23, R. 3 (Jan) 7

—Delhi Rent Control Rules (1955), R. 23—Rule does not make provisions of Civil P. C., applicable to proceedings before Rent Controller—See Civil P. C. (1903), O. 23, R. 3 (Jan) 7

—Punjab Public Premises and Land (Eviction and Rent Recovery) Act (31 of 1959), S. 5—Section violates Art. 14 of the Constitution—See Houses and Rents—Punjab Public Premises and Land (Eviction and Rent Recovery) Act (31 of 1959), S. 7 (2) (July) 194

—Ss. 7 (2) and 5—Constitution of India, Art. 14—S. 7 (2) is violative of Art. 14 on the basis of reasoning adopted by AIR 1967 S C 1531 in striking-down S. 5 as violative of Art. 14—Even otherwise, in absence of S. 5, S. 7 (2) cannot operate (July) 194

Houses and Rents (contd.)

—**Punjab Public Premises and Land (Eviction and Rent Recovery) Rules (1957), R. 7** — No procedure is prescribed for determination of, what is essentially a 'Lis' requiring judicial determination — *See* Houses and Rents — Punjab Public Premises and Land (Eviction and Rent Recovery) Act (1959), S. 7 (2) (July) 194

Income-tax Act (43 of 1961), S. 131 (as amended by Act 1 of 1965) — Compelling attendance—Production of accounts or documents

—Power as to — *See* Constitution of India, Art. 14 (Mar) 91N

—**S. 131** — Information gathered as a result of illegal search and seizure — Admissibility in evidence—*See* Constitution of India, Art. 19 (Mar) 91O

—**S. 132 (as amended by Act, 1 of 1965)** — Scheme of the section (Mar) 91D

—**S. 132 (as amended by Act 1 of 1965)** — Seizure of documents — Usefulness and relevancy of documents—Test (Mar) 91F

—**S. 132 (as amended by Act 1 of 1965)** — Search and seizure of documents—Two alternatives, viz., to seize books or place marks of identification and leave documents with persons concerned, available—Seizure cannot be resorted to (Mar) 91G

—**S. 132 (as amended by Act 1 of 1965)** — Seizure of irrelevant documents—Validity (Mar) 91H

—**S. 132, 2nd Explanation (as amended by Act 1 of 1965)** — Scope—Proceedings need not be pending (Mar) 91I

—**S. 132 (as amended by Act 1 of 1965)** — Search and seizure — Exercise of power — Proceeding need not be imminent (Mar) 91J

—**S. 132 (as amended by Act 1 of 1965)** — Search and seizure of documents—Precise specification of documents in authorisation order is not necessary — All that authority issuing authorisation must believe is that there are useful and relevant documents available in premises to be searched (Mar) 91K

—**S. 132 (as amended by Act 1 of 1965)** — Criminal P. C. (1898), S. 165 (1) — Search and seizure of documents — Authorised officers not required to record any reasons — Section and Rule 112 require only authorising officer to give reasons (Mar) 91L

—**S. 132 (as amended by Act 1 of 1965)** — Scope—Investigation under, not being in the nature of investigation into any offence, S. 165 (5) of Criminal P. C. cannot in terms apply (Mar) 91M

—**S. 132 (as amended by Act 1 of 1965)** — Section does not violate Art. 14 or Art. 19—AIR 1964 Assam 1 (FB), Dissent. from—*See* Constitution of India, Art. 14 (Mar) 91N

Income-tax Act (contd.)

—**S. 132 (as amended by Act 1 of 1965)** — Information gathered as a result of illegal search and seizure — Admissibility in evidence—*See* Constitution of India, Art. 19 (Mar) 91O

—**S. 132 (1) (as amended by Act 1 of 1965)** — Penal Code (1860), S. 26 — Expression "reason to believe"—Meaning attributed to said expression under Penal Code cannot be applied to that expression under S. 132 (1) of Income-tax Act (Mar) 91A

—**S. 132 (1) (as amended by Act 1 of 1965)** — Expression "reason to believe" — It is in a sense both subjective and objective but area of objectivity is limited (Mar) 91C

—**S. 132 (1) (as amended by Act 1 of 1965)** — Fact of authorisation issued in statutory form in accordance with requirements of R. 112 (14) — It does not necessarily lead to conclusion that Director of Inspection had applied his mind to question of necessity of search and seizure, as mandate of that rule extends to no more than reciting only applicable provisions in the Form (Mar) 91E

Insurance Act (4 of 1938), S. 104 — Ss. 104 and 105 of Act are not identical with Ss. 405 and 409 of Penal Code — *See* Penal Code (1860), S. 405 (Nov) 330J

—**S. 105** — Ss. 104 and 105 of Act are identical with Ss. 405 and 406 of Penal Code — *See* Penal Code (1860), S. 405 (Nov) 330J

Interpretation of Statutes—Rules of—Use of legislative history — *See* Civil P. C. (1908), Pre (May) 154A (FB)

Land Acquisition Act (1 of 1894), S. 3 (ee) — Appropriate Government — Land acquired for purpose of Union — Vide Notf. No. F. 26 (5)/67/J. II State Government is appropriate Government — *See* Land Acquisition Act (1894), S. 6 (Oct) 279C

—**Ss. 6, 3 (ee)** — "Appropriate Government"—Land acquired for purposes of Union — Declaration issued after satisfaction of State Government — Declaration is valid in view of Notification No. F. 26 (5)/67/J. II, D/- 20-2-1957 (S. R. O. No. 645) issued under Art. 258 (i), Constitution of India — A I R 1968 Delhi 97, Reversed (Oct) 279C

Letters Patent (Bom, Cal and Mad), Cl. 15 — Judgment—Meaning of — *See* Letters Patent (Lahore), Cl. 10 (Mar) 85B (FB)

—(Lahore) Cl. 10—'Judgment,' meaning of explained — Delhi High Court Act (1966), S. 10—Words and Phrases — Judgment — Letters Patent (Bom., Cal and Mad), Cl. 15—Civil P. C. (1908), S. 2 (2) and 2 (9) (Mar) 85B (FB)

Limitation Act (9 of 1908), S. 5—Application for certified copy of decree not made within time for appeal—S. 5 can be used to claim

Limitation Act (1908) (contd.)

extension — See Civil P. C. (1908), O. 41, R. 22 (Apr) 126A

— *Art. 182* — Dismissal of cross-objections—Application for certified copy of decree not made within time for appeal — Decree sheet also not prepared — Period of limitation will not be extended — See Civil P. C. (1908), O. 41, R. 22 (Apr) 126A

Limitation Act (36 of 1963), S. 5 — Appeal barred by time—Order under appeal passed in appellant's absence — Copy of order not given—Appeal—Maintainability—See Trade and Merchandise Marks Act, (1958), S. 109 (Nov) 324A

— *S. 10* — Suit for rendition of accounts against trustee — Suit does not abate with death of trustee—See Trusts Act (1882), S. 19 (Mar) 75D

Motor Vehicles Act (4 of 1939), S. 48 (3) (xiv) — Question whether issue of through tickets can be prohibited is of sufficient private or public importance to justify certificate of fitness for appeal under Art. 133 (1) (c) of Constitution — See Constitution of India, Art. 133 (1) (c) (Feb) 58

— *Ss. 110 to 110-F* — Fatal Accidents Act (1855)—Relative scope of two Acts—Special and general law — Claim under S. 110A of former Act is solely governed by provisions of that Act and not by Fatal Accidents Act (June) 183C

— *S. 110-A* — Claim for compensation in motor accident case — Appreciation of evidence—See Evidence Act (1872), S. 5 (June) 183A

— *Ss. 110A and 116* — Rash and negligent driving of bus—Duty and liability of driver and conductor of public motor vehicle — Held on facts that accident was caused due to rashness and negligence on part of driver and conductor of bus (June) 183B

— *S. 110-A* — Claim for compensation under — Burden of proof—Shifting of onus (June) 183E

— *S. 110-B* — Fatal Accidents Act, 1855, Ss. 1A and 2—Claim for compensation under Motor Vehicles Act — Assessment of just compensation — Criterion to determine — Decisions under Fatal Accidents Act how far useful (June) 183D

— *Ss. 110C and 110D* — Appeal against order of Tribunal dismissing claim for compensation for death — One of the claimant not having appealed added as respondent — Appeal allowed — High Court can award compensation to respondent claimant to do full justice between parties—See Civil P. C. (1908), S. 151 (June) 183F

— *S. 110-F* — Bar of Civil Court's jurisdiction — Change of forum brought in by the

Motor Vehicles Act (contd.)

provision operates retrospectively — AIR 1964 M P 181, Diss. — (Civil P. C. (1908), Preamble, S. 9) (Jan) 3

— *S. 112* — Offence alleged to have been committed by a public servant — His successor in office cannot be held liable — See Penal-Code (1860), S. 40 (Oct) 291C

— *S. 112* — Traffic violation by State Transport Drivers — Prosecution of General Manager — Sanction under S. 197, Criminal P. C. necessary — See Criminal P. C. (1898), S. 197 (Oct) 291D

— *S. 116* — Rash and negligent driving of public bus—Duty and liability of driver and conductor of public motor vehicle — See Motor Vehicles Act (1939), S. 110A (June) 183B

MUNICIPALITIES

— **Delhi Municipal Corporation Act (66 of 1957), S. 109** — Validation of electricity tax levied for a specified period by the Corporation — Propriety — See Municipalities — Delhi Municipal Corporation (Validation of Electricity Tax) Act (1966), S. 2 (May) 159B

— *S. 113* — Validation of levy of electricity tax by Municipal Corporation for a specified period — Propriety — See Municipalities — Delhi Municipal Corporation (Validation of Electricity Tax) Act (1966), S. 2 (May) 159B

— *Ss. 113 (2), (d), 150* — Levy of tax on consumption, sale or supply of electricity — Corporation can legally levy tax on consumption of electricity irrespective of the source of that electricity—Tax on consumption of electricity generated by the consumer himself is not illegal (May) 159C

— *Ss. 113 (2) (d) and 150 (1)* — Power to levy tax — No guidance provided by Parliament for fixation of rates — Absence of guidance amounts to excessive delegation — Sections are void (May) 159D

— *S. 150* — Validation of Municipal Corporation's resolution imposing electricity tax for a specified period — Propriety — See Municipalities—Delhi Municipal Corporation (Validation of Electricity Tax Act) (1966), S. 2 (May) 159B

— *S. 150* — Tax on consumption, sale or supply of electricity — Legality—See Municipalities — Delhi Municipal Corporation Act (1957), S. 113 (2) (d) (May) 159C

— *S. 150 (1)* — Power to levy tax — Section is void—See Municipalities—Delhi Municipal Corporation Act (1957), S. 113 (2) (d) (May) 159D

— *S. 150 (3)* — Resolution levying tax under validated in so far as rates specified related to consumption or sale of electricity—Resolution not specifying rates — Effect — See Municipalities — Delhi Municipal Corpora-

Municipalities—Delhi Municipal Corporation Act (contd.)
 tion (Validation of Electricity Tax) Act (1966), S. 2 (May) 159E
 —**Delhi Municipal Corporation (Validation of Electricity Tax) Act (35 of 1966), S. 2—**
 Validation—Municipal Corporation passing resolution on 24.6.59 levying electricity tax under S. 150 (3) of Delhi Municipal Corporation Act (1957).—Resolution held illegal because of invalidity of steps taken under sub-ss. (1) and (2) which are conditions precedent—Subsequent validation of resolution under sub-s. (3) by Validation Act—Validation also validated steps taken under anterior sub-ss. (1) and (2) of S. 2 (May) 159A
 —S. 2—Validation—Municipal Corporation's resolution imposing electricity tax for a specified period—In absence of levy for further period, validation of rates was held to be of no effect (May) 159B
 —S. 2—Resolution of Delhi Municipal Corporation under S. 150(3) of the Delhi Municipal Corporation Act, 1957 validated in so far as rates specified in the resolution in respect of tax on consumption or sale of electricity—Resolution not specifying rates—Resolution, however, approving resolution of Standing Committee which in term referring to rates sanctioned by Government—Rates held were specified by reference, though not expressly recited in the resolution of the corporation to the resolution of the standing committee (May) 159E

Natural Justice—Quasi judicial order—Rule of audi alteram partem violated—Case fit for interference under Art. 227 of the Constitution—See Constitution of India, Art. 227 (Jan) 1

Penal Code (45 of 1860), S. 26—Expression 'reason to believe'—Meaning of expression in the Code cannot be applied to that expression in S. 132 (1) of Income-tax Act, 1961—See Income-tax Act (1961), S. 132. (1) (as amended by Act 1 of 1965) (Mar) 91A
 —S. 40.—Criminal liability—Traffic offences—Fixing of, on later incumbents of the office—Not normal (Oct) 291C
 —S. 120B.—Offence punishable under S. 120B is not reproduced in Insurance Act—See Penal Code (1860), S. 405 (Nov) 330J

Sec. 228—Jurisdiction of High Court to nature of contempt of Subordinate Courts—See S. 165 (5) (July) 214D (SB)

apply
 —S. 132 (as Ingredients necessary—Mere Section does not incriminating articles not AIR 1964 Assam les must be such as could be Constitution of India ing purpose—Destruction

Penal Code (contd.)
 of articles before disposal of case, fatal to the prosecution case (Nov) 315A
 —S. 243—Prosecution under—Coins not available for scrutiny by High Court in appeal—Probability of innocent possession not ruled out—Accused acquitted (Nov) 315B
 —S. 279—Rash and negligent driving of bus—Held on facts that accident was caused due to rashness and negligence on part of driver and conductor of bus—See Motor Vehicles Act (1939), S. 110A (June) 183B
 —S. 361—Mother's custody of her child under five years of age—Does not constitute "confinement" amounting to an offence—See Criminal P. C. (1898), S. 100 (Oct) 304C
 —Ss. 405, 409 and 120B—Institution of prosecution under, instead of Ss. 104 and 105 of Insurance Act (1938)—Sections 104 and 105 and not identical with offences punishable under Ss. 405, 409 of Penal Code—Offence punishable under S. 120B, Penal Code, not reproduced in Insurance Act—Prosecution under Penal Code cannot be said to be instituted to by-pass requirement of sanction under Insurance Act: (Nov) 330J
 —S. 409—Sections 104 and 105 of Insurance Act (1938) are not identical with Ss. 405 and 409 of Penal Code—See Penal Code (1860), S. 405 (Nov) 330J

Prevention of Food Adulteration Act (37 of 1954), S. 10(7) (as it stood prior to amendment of 1964)—Taking of samples of 'Chillies powder' by Food Inspector—Another Food Inspector and a peon present at relevant time—Two customers who were also present refusing to become witnesses—Absence of any witnesses from public cannot be regarded as non-compliance with requirements of S. 10 (7) (Jury) 198A

—S. 20 (as it stood prior to amendment by Act 49 of 1964)—N, a Municipal Prosecutor authorised under S. 20 through a resolution of Municipal Corporation to institute and conduct all prosecutions under the Act—Complaint filed by him is valid—General authorisation to prosecute offences under the Act is valid—What the section means is that prosecution must be instituted either by some person duly authorised with delegated power or else by some person not so delegated but with the written consent of an authorised person—Provisions of S. 193B, Criminal P. C., are not in pari materia with those of S. 20—AIR 1963 Ori 158, Dissented from (July) 199

Prevention of Food Adulteration Rules (1955), Rr. 7 and 18—Specimen impression of seal used to seal the sample was affixed on Form No. VII sent along with sample of Chillies powder—Report of Public Analyst mentioning that he found "the seal" intact and un-

Prevention of Food Adulteration Rules (*contd.*)
 broken—Held no objection could be taken that there was nothing in report to show that seal on bottle containing sample tallied with specimen seal impression—Report obviously meant that seal tallied with specimen signature (July) 198D

—**R. 18**—Sealing of specimen sample—Report of Public Analyst mentioning seal intact—Report held meant that seal tallied with signature—*See* Prevention of Food Adulteration Rules (1955), R. 7 (July) 198D

—**Appendix B, R. A. 05.10**—Sample of Chillies powder—Report of Public Analyst—Presence of extraneous colouring matter in the form of coal tar dye—Classification of coal tar dye is not necessary—Merely presence of extraneous colouring matter is sufficient to make chillies (*Capsicum*) adulterated (July) 198C

Preventive Detention Act (4 of 1950)

See under Public Safety.

Provincial Small Cause Courts Act (9 of 1887), S. 15 (1)—Suit for possession of immovable property—Excepted from the cognizance of a Small Cause Court—*See* Civil P. C. (1908), O. 23, R. 3 (Jan) 7

—**S. 17 (1)**—Proceedings before Rent Controller—Practice and procedure to be followed—*See* Civil P. C. (1908), O. 23, R. 3 (Jan) 7

—**Sch. 2, Art. 14**—Suit for possession of immovable property or an interest therein—Not cognizable by Small Cause Courts—*See* Civil P. C. (1908), O. 23, R. 3 (Jan) 7

PUBLIC SAFETY

—**Preventive Detention Act (4 of 1950), S. 3 (1) (a)**—Subjective satisfaction of detaining authority subject to certain exceptions, is not justiciable—Such satisfaction cannot be tested by objective tests—Grounds on which order can be struck down, stated (Feb) 45A (FB)

—**S. 3 (1) (a) and (b)**—Provisions have to be read independently—S. 3 (1) (b) authorises detention of a foreigner with a view to regulate his continued presence in India—Provision of S. 3 (1) (b) is not ultra vires the legislature and is well within Entry 9 List III and Entry 3, List I of Seventh Schedule to the Constitution (Feb) 45B (FB)

—**S. 3 (1) (a) and (b)**—Detention order—Validity—Vagueness of some of the grounds would render the order invalid: (Feb) 45C (FB)

—**S. 3 (1) (b)**—Validity—Provisions do not give unlimited power to executive to pick and choose any foreigner for being subjected to preventive detention—Provisions do not violate Art. 14 of the Constitution. (Feb) 45D (FB)

Punjab Document Writers Licensing Rules (1961), R. 3 (2)—Rule is ultra vires—*See* Registration Act (1908), S. 69 (1) (bb) (as amended by Indian Registration (Punjab Amendment) Act (1961) (May) 134

Punjab Pre-emption Act (1 of 1913) (*as amended by Punjab Act 10 of 1960*), S. 15 (1) (b), *thirdly*—Or, meaning of—Does not mean 'and'—Father's brother has superior right over father's brother's son (1968) 70 P L R 571, Overruled (May) 154B (FB)

Punjab Pre-emption (Amendment) Act (10 of 1960)—Extension to Himachal Pradesh under S. 2 of Union Territories (Laws) Act (1950) is valid—*See* Union Territories (Laws) Act (1950), S. 2 (Sep) 267

Punjab Public Premises and Land (Eviction and Rent Recovery) Act (31 of 1959)

See under Houses and Rents

Punjab Relief of Indebtedness Act (7 of 1934)
See under Debt Laws

Registration Act (16 of 1908), S. 17 (1) (b)—T. P. Act (1882), Ss. 58 (f) and 59—Registration of Memo accompanying deposit of title deeds (Apr) 120C

—**S. 69 (1) (b)** (*as amended by Indian Registration (Punjab Amendment) Act, 1961*)—Punjab Document Writers Licensing Rules (1961), R. 3 (2)—Sub-rule (2) is in excess of rule-making powers conferred under S. 69 (1) (bb) and so ultra vires (May) 134

Regulations for Medical Services of the Army in India

See under Civil Services.

Sale of Goods Act (3 of 1930), S. 2 (11)—Pledge, mortgage and sale distinguished—*See* Contract Act (1872), S. 172 (Nov) 313

—**S. 4**—Pledge, mortgage and sale distinguished—*See* Contract Act (1872), S. 172 (Nov) 313

SALES TAX

—**Bengal Finance (Sales Tax) Act (6 of 1941), S. 21 (1)**—*See* Constitution of India, Art. 227 (Jan) 1

Slum Areas (Improvement and Clearance) Act (96 of 1956), S. 19—Application by landlady for permission to execute eviction order against tenant—Order granting permission subject to certain conditions—Order not conditional refusal of permission—Second application for permission during pendency of execution proceedings would not lie (Nov) 322

Societies Registration Act (21 of 1860), S. 2—Society registered under the Act—Society an autonomous body—Society was 'authority' within Art. 12 of the Constitution—*See* Constitution of India, Art. 12 (June) 170B

Succession Act (39 of 1925), S. 306—Suit for rendition of accounts against a trustee—Does not abate on death of trustee—Liability

Succession Act (contd.)

of L. Rs. with regard to mode of accounting

—See **Trusts Act (1882)**, S. 19 (Mar) 75D

Tort—Negligence—Public motor vehicle—

Duty and liability of driver and conductor of—See **Motor Vehicles Act (1939)**, S. 110A

(June) 183B

Trade and Merchandise Marks Act (43 of

1958), S. 44 — Alteration in certificate of

registration—Propriety—See **Trade and Merchandise Marks Act (1958)**, S. 57 (1)

(Nov) 324D

—S. 56—Alteration in certificate of registration—Not administrative function—Com-

pliance with natural justice—See **Trade and Merchandise Marks Act (1958)**, S. 57 (1)

(Nov) 324D

—S. 57 (1) — Alteration in certificate of

registration — Order affecting proprietary rights of appellant—Appeal against same lies

to High Court under S. 109 (2) — See **Trade and Merchandise Marks Act (1958)**, S. 109

(Nov) 324B

—S. 57 (1) — Trade and Merchandise

Marks Rules (1959), R. 99 and Form T. M. 16

—Order under S. 57 (1) allowing alteration

made without any notice to and in absence

of the person whose name was removed

from certificate of registration—Held, order

being in contravention of R. 99 could not be

substained (Nov) 324C

—Ss. 57 (1), 44 and 56 — Trade and Merchandise Marks Rules (1959), Forms T. M.

16 and 24—Alteration in certificate of registration — Person adversely affected should

have a notice of proceedings and would be

entitled to a copy of order being supplied—

Registrar must also give reasons for his

order (Nov) 324D

—S. 109—Trade and Merchandise Marks

Rules (1959), R. 121—Appeal under S. 109,

prima facie barred by time under R. 121—

Order under appeal passed in appellant's

absence and without notice to him — After

knowing about its existence appellant applying

for copy—Copy not given—Held it was

a fit case for entertaining appeal even though

time for filing same expired (Nov) 324A

—Ss. 109, 57 (1)—Alteration in certificate

of registration—Order affecting proprietary

rights of appellant — Order involving such

serious consequences comes within ambit of

S. 109 (2) (Nov) 324B

Trade and Merchandise Marks Rules (1959),

R. 99 — See Trade and Merchandise Marks

Act (1958), S. 57 (1) (Nov) 324C

—R. 121—See **Trade and Merchandise**

Marks Act (1958), S. 109 (Nov) 324A

—Form T. M. 16—See **Trade and Merchandise**

Marks Act (1958), S. 57 (1) (Nov) 324C

—Form T. M. 24 — Alteration in certificate

of registration — Compliance with natural

Trade and Merchandise Marks Rules (contd.)

justice — See **Trade and Merchandise Marks**

Act (1958), S. 57 (1) (Nov) 324D

Transfer of Property Act (4 of 1882), S. 54—

Pledge, mortgage and sale distinguished —

See **Contract Act (1872)**, S. 172 (Nov) 313

—S. 58 — Pledge, mortgage and sale distinguished—See **Contract Act (1872)**, S. 172

(Nov) 313

—S. 58 (f) — Mortgage by deposit of title

deeds (Apr) 120A

—S. 58 (f)—Mortgage by deposit of title-

deeds—Deposit can be both actual and constructive (Apr) 120B

—S. 58 (f)—Memo accompanying deposit

of title-deeds—Registration of—See **Registration**

Act (1908), S. 17 (1) (b) (Apr) 120C

—S. 59—Memo accompanying deposit of

title-deeds—Registration — See **Registration**

Act (1908), S. 17 (1) (b) (Apr) 120C

—Ss. 106, 111 (d) — Houses and Rents —

Delhi Rent Control Act (59 of 1958), Ss. 14,

15 (1) — Application for eviction for non-

payment of rent — Part of building rented

out by A to B — B subletting part of it to C

—C purchasing building, including portion

rented to B — By reason of purchase C not

paying agreed rent to B — Held, transfer by

A to C did not wipe out tenancy in favour

of B and B continued to be landlord of C

and C was liable to pay rent even after he

had purchased the whole building (Jan) 14

—S. 111 (d) — Doctrine of merger — One

single indivisible tenancy cannot be partly

wiped out—See **T.P. Act (1882)**, S. 106: (Jan) 14

—S. 116 — Holding over by tenant —

Effect of — Tenant not liable to pay double

the rent — Liability of tenant is that of a

trespasser — Tenant required to pay mesne

profits — Damages to landlord limited to

mesne profits — AIR 1924 Lah 648 and 1904

Pun Re 5 and 1893 Pun Re 33 and AIR 1919

Lah 72 and AIR 1924 Lah 643 and Civil Revn.

No. 248 of 1948 D/- 3-9-1948 (Lah) and F.A.

No. 190 of 1944, D/- 8-9-1948 (Lah), Dissent-

ed from (Feb) 59

Trusts Act (2 of 1882), S. 19 — Suit by

trustee against co-trustee for rendition of

accounts—Maintainability — See **Trusts Act**

(1882), S. 48 (Mar) 75A

—S. 19 — Suit for rendition of accounts

by a trustee against co-trustee, in day to day

charge of trust properties—Does not come

within S. 92, Civil P. C. — See **Civil P. C.**

(1908), S. 92 (Mar) 75C

—S. 19—Public Trust—Suit for rendition

of accounts against trustee — Suit does not

abate with death of trustee — Liability of

legal representatives with regard to mode of

accounting (Mar) 75D

—Ss. 19, 48, 44 — Public Trust — Suit for

rendition of accounts by co-trustees against

Trusts Act (contd.)

legal representatives of managing trustee — Books of accounts maintained by managing trustee in possession of plaintiff-co-trustees — Evidence revealing that account-books were prepared by managing trustee from his personal account-books and supporting vouchers had been retained by him — Held, simply because account-books were in custody of plaintiffs it could not be said that suit for accounts could not be proceeded against legal representatives of managing trustee (Mar) 75E

—Ss. 19, 48, 44, 46—Public trust—Suit by co-trustee against legal representatives of deceased managing-trustee for rendition of accounts — Co-trustee shown to have resigned his post earlier — Since for period during which co-trustee was trustee, he had right to call upon deceased managing-trustee and after him his legal representatives to render accounts of trust property and since notwithstanding his resignation co-trustee had not ceased to be trustee, suit by him held maintainable (Mar) 75F

—Ss. 19, 44, 48 — Public trust — Suit by co-trustee against legal representatives of deceased managing-trustee for rendition of accounts — Held, since liability of legal representatives was not onerous and was lighter than their predecessor there was no justification for restricting period of accounting (Mar) 75G

—S. 44—Public trust — Suit for rendition of accounts by co-trustees against L. Rs. of deceased trustee — Maintainability — See Trusts Act (1882), S. 19 (Mar) 75E

—S. 44—Public trust—Suit for rendition of accounts by co-trustee against L. Rs. of deceased trustee — Maintainability — See Trusts Act (1882), S. 19 (Mar) 75F

—S. 44—Public trust—Suit for rendition of accounts by co-trustee against L. Rs. of deceased trustee — Restriction of period of accounts—Propriety—See Trusts Act (1882), S. 19 (Mar) 75G

—S. 46—Public trust — Suit for rendition of accounts by co-trustee against L. Rs. of deceased trustee—Co-trustee shown to have resigned his post earlier — Held suit was maintainable—See Trusts Act (1882), S. 19 (Mar) 75F

—Ss. 48, 19—Public trust—Suit by trustee against co-trustee for rendition of accounts — Maintainability (Mar) 75A

—S. 48 — Public trust — In trust-deed author of trust naming one of trustees to be in day-to-day charge of income and expenditure of trust property—Provision does not in any way affect joint responsibility of trustees in respect of management and ad-

Trusts Act (contd.)

ministration of trust (Mar) 75B

—S. 48 — Suit for rendition of accounts against trustee in day-to-day charge of trust properties, by his co-trustee—Does not fall within S. 92, C. P. Code — See Civil P. C. (1908), S. 92 (Mar) 75C

—S. 48—Public trust — Suit for rendition of accounts by co-trustees against L. Rs. of deceased trustee — Maintainability — See Trusts Act (1882), S. 19 (Mar) 75E

—S. 48—Public trust — Suit for accounts by co-trustee against L. Rs. of deceased trustee — Maintainability — See Trusts Act (1882), S. 19 (Mar) 75F

—S. 48—Public trust — Suit for accounts by co-trustee against L. Rs. of deceased trustee — Restricting the period of accounting—Propriety—See Trusts Act (1882), S. 19 (Mar) 75G

Union Territories (Laws) Act (30 of 1950), S. 2—Constitutional validity—S. 2 based on sound legislative policy is valid—Under S. 2 Central Government is empowered to extend to Union territories not only original enactments of State Legislature but also amendments made thereto by State Legislature—Hence extension of Punjab Pre-emption (Amendment) Act (1960) by Central Government to Himachal Pradesh by a notification in exercise of powers conferred under S. 2 is valid (Sep) 267

Untouchability (Offences) Act (22 of 1955), S. 7 (1) (c) — Mother's custody of her child under five years of age—Does not constitute an offence under S. 7 (1) (c) — See Criminal P. C. (1898), S. 100 (Oct) 304C

Words and Phrases — Cession of territory—See Constitution of India, Art. 368

(Feb) 64B
—“Child” means immediate offspring of whatever age who is unable to maintain himself so far as S. 488 (1), Criminal P. C., goes—See Criminal P. C. (1898), S. 488 (1)

(Aug) 235A
—“Criminal Proceedings” — Proceedings under S. 488, Criminal P. C., are criminal proceedings — See Constitution of India, Art. 134 (1) (c) (Oct) 298

—“Judgment”—Meaning of — See Letters Patent (Lah.), Cl. 10 (Mar) 85B (FB)

—“Maintenance”—Covers costs of college education till child is old enough to earn its living — See Criminal P. C. (1898), S. 488 (1) (Aug) 235B

—“Or”—Does not mean ‘and’—See Punjab Pre-emption Act (1 of 1913), S. 15 (1) (b), thirdly (May) 154B (FB)

—“Police Officer” — Customs Officer not police officer — See Criminal P. C. (1898), S. 523 (Oct) 301A

DELHI CASES SUBJECTWISE REVERSED IN A. I. R. 1969

Companies Act (1 of 1956).

—Ss. 125, 212, 214, 318, 338, 441 to 443, 456, 531, 536(2)—Decision of Andley J. in C. A. No. 192 of 1968, D/- 26-8-1968 (Delhi) — Revers. AIR 1969 Delhi 258 (Sep).

Land Acquisition Act (1 of 1894)

—S. 3 (ee)—AIR 1968 Delhi 97 — Revers.

Land Acquisition Act (contd.)

AIR 1969 Delhi 279C (Oct).

—S. 6—AIR 1968 Delhi 97 — Revers. AIR 1969 Delhi 279C (Oct).

Penal Code (45 of 1860)

—S. 161 — Cri Appeal No. 656 of 1963, D/- 14-12-1964 (Delhi) — Revers. A I R 1969 S C 17C (Jan).

DELHI CASES REVERSED IN A. I. R. 1969.

Cri. Appeal No. 656 of 1963, D/- 14-12-1964 (Delhi)—Revers. AIR 1969 SC 17C (Jan).
A I R 1968 Delhi 97, Anrup Thakar v. State of Punjab — Revers. A I R 1969 Delhi 279C (Oct).

Decision of Andley J. in C. A. No. 192 of 1968, D/- 26-8-1968 (Delhi)—Revers. AIR 1969 Delhi 258 (Sep).

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous Years

Owing to late receipt of other Journals the following *Supplement* to Comparative Table of A. I. R. = Other Journals is issued

AIR Delhi = Other Journals

AIR 1967 Delhi	AIR Other Journals	AIR 1968 Delhi	AIR Other Journals	AIR 1968 Delhi	AIR Other Journals	AIR 1968 Delhi	AIR Other Journals
98	(1969) 2 Lab L J 195	85	1968 Serv L R 382	174	71 Pun L R (D) 167	202	71 Pun LR (D) 140
		124	72 I T R 474	185	(1969) 2 Lab L J 524	269	1969 Ser L R 66

AIR 1969 Delhi = AIR Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1	[C N 1]	128	[C N 19] ...	198	[C N 34]	285	(FB) [C N 47]
	24 S T O 44	132	[C N 20] ...		71 Pun L R (D) 220		71 Pun L R (D) 149
3	[C N 2] ...	133	[C N 21]		1969 Cri L J 881	289	[C N 48]
6	[C N 3] ...		70 Punj L R (D) 311	201	(FB) [C N 35]		71 Pun L R (D) 259
7	[C N 4] ...		1969 Cri L J 598		1969 Cri L J 884	291	[C N 49]
12	[C N 5]	134	[C N 22]	214	(SB) [C N 36]		(1969) 71 Pun
	70 Pun LR (D) 320		70 Pun L R (D) 373		71 Pun L R (D) 84		L R (D) 270
	1969 Cri L J 43	137	[C N 23]		1969 Cri L J 896		1969 Cri L J 1239
14	[C N 6] ...		1969 Cri L J 539	220	[C N 37]	295	[C N 50] ...
15	[C N 7] ...	142	[C N 24]		1969 Lab I C 802	298	[C N 51] ...
21	[C N 8]		71 Pun L R (D) 52	235	[C N 38]		1969 Cri L J 1243
	70 Pun L R (D) 230	145	[C N 25]		1969 Cri L J 965	301	[C N 52]
	1969 Cri L J 45		1969 Lab I C 539	246	[C N 39]		71 Pun LR (D) 302
26	[C N 9]	150	[C N 26]		1969 Lab I C 974		1969 Cri L J 1245
	1969 Cri L J 168		1969 Cri L J 603	258	[C N 40]	304	[C N 53]
45	(FB) [C N 10]	154	(FB) [C N 27]		(1969) 39 Com Cas 1		1969 Cri L J 1370
	1969 Cri L J 186		71 Pun L R (D) 33		(1969) 1 Ccm	311	[C N 54]
58	[C N 11] ...		[C N 28] ...		L J 188		71 Pun L R (D) 384
59	[C N 12] ...	159	[C N 28] ...	263	[C N 41]	313	[C N 55] ...
64	[C N 13] ...	169	(FB) [C N 29]		1969 Cri L J 1127	315	[C N 56]
75	[C N 14] ...		70 Pun L R (D) 893	267	[C N 42]		1969 Cri L J 1377
85	(FB) [C N 15]		1969 Cri L J 727		71 Pun L R (D) 44	319	[C N 57]
	71 Pun L R (D) 75	170	[C N 30]		[C N 43]		1969 Cri L J 1380
91	[C N 16]		1969 Lab I C 649		71 Pun L R (D) 223	322	[C N 58]
	(1969) I I T J 625	183	[C N 31] ...	275	[C N 44] ...		71 PunLR (D) 241
	71 ITR 550	194	[C N 32] ...		[C N 45] ...		1969 Ron. O R 712
112	[C N 17] ...	197	[C N 33]	279	[C N 46]	324	[C N 59] ...
120	[C N 18] ...		71 Pun L R (D) 59		71 Pun L R (D) 314	330	[C N 60] ...
						349	[C N 61] ...

Other Journals = All India Reporter

(1968) 70 Pun	(1969) 71 Pun	71 Pun L R (D) AIR	71 Pun L R (D) AIR	71 Pun L R (D) AIR
L R (D)	L R (Delhi)			
PunLRD AIR	PunLR (D) AIR	75 1969 Delhi 85	220 1969 Delhi 198	285 1969 SC 288
311 1969 Delhi 133	1 1968 SO 1355	84 " " 214	223 " " 273	302 " Delhi 301
373 " " 134	22 " " 1370	105 1969 CriLJ 1161	232 " SC 488	314 " " 283
393 " " 169	83 1969 Delh 164	118 " " 250	241 " Delhi 322	318 1970 " 37
	44 " " 267	140 1968 Delhi 250	259 " " 289	371 " SC 5
	52 " " 142	149 1969 " 285	262 " SC 886	384 1967 Delhi 311
	59 " " 197	167 1968 " 174	270 " Delhi 291	391 1970 Delhi 2

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1969

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NOMINAL TABLE

Agencia Olimpia (Cement) v. Govt. of India	(May) 61	Krishan Lal Vij v. Union of India	(May) 145
Cipriano Negredo v. Union of India	(June) 76	Lourenco Rocha v. Euclidas Joao Rodrigues	(Apr) 48
Comunidade of Aquem v. State	(Jan) 1	Manguesh Jaiwant Sinai Singhal v. State	(Sep) 106
Comunidade of Velguem of Bicholim v. Vasant Vithal Govekar	(Apr) 37	Mani Muttayya Pillai v. State	(May) 55
Conceicao Manuel Clemente v. Lily D'Souza	(May) 53	Maria Julia Coutinho v. Ananta Soman Chitare	(June) 74
Goa Dock Labour Union v. Union Territory of Goa	(Jan) 16	Marta Silva v. Piedade Cardozo	(Aug) 94
Goa Dock Labour Union v. Union Territory of Goa, Daman and Diu	(Aug) 91	New Zealand Insurance Company Ltd. v. Krishna Naik	(May) 50
Govind Narayan v. Government of Goa, Daman and Diu	(Jan) 6	Phiroz Jehangirji Dastur v. State	(May) 56
Hari Manu v. Harishchandra Shankar	(Apr) 47	Rama alias Dhaktu Worak v. State	(Nov) 116
Ibrahim Husen v. State	(June) 68	Ramakant Rajarama v. Manuel Fernandes	(Apr) 45
Joao da Costa Pereira v. Union Territory of Goa, Daman & Diu	(Apr) 44	Sazro Govind Gadi v. Malba Madeva Suria	(Apr) 42
Joao Francisco Coelho v. Maria Luciana de Souza	(Dec) 136	Severino Santos D'Souza v. State	(June) 66
Jose Caetano Vaz v. Julia Leocadia Lucretia Fernandes	(Aug) 90	State v. Anand Lakshiman Chari	(Apr) 40
Justiniano Augusto da P. Barreto v. Antonio Vicente de Fonseca	(Nov) 124	State v. Florencio Mascarenhas	(Nov) 115
Keshav Gangaram Prabhu Mhambrey v. Vasant Atmaram Prabhu Mhambrey	(May) 52	State v. Hemappa Chandra-sidappa	(Apr) 39
		State v. Narhari Anant Naik	(Aug) 87
		State v. Vasant Tukaram Zantie	(Sep) 104
		Vaijanath H. Sanadi v. State	(Dec) 142
		Vithol Porobo Dessai v. Premavati Porbina Dessai	(June) 67
		Xembu Govinda Sinai v. Union of India	(Feb) 30

SUBJECT INDEX

Act of State — See Constitution of India, Art. 226 (Jun) 76A

Civil Procedure Code (5 of 1908), Pre. — Interpretation of Statutes — Retrospective operation — Statute affecting vested right — Express language fairly capable of either interpretation — Prospective operation should be given (Jan) 6C

— *Pre.* — Interpretation of Statutes — That construction of word has to be adopted which harmonises with the context and promotes the policy and the object which the Legislature had in view (Jan) 6D

— *Pre.* — Interpretation of Statutes — Inconsistent statutes — Implied repeal (Feb) 30B

— *Pre.* — Interpretation of Statutes — Prospective or retrospective operation — See Transfer of Property Act (1882), *Pre* (Apr) 42B

— *Pre.* — Interpretation of Statutes — Legislative intent — S. 264, Criminal P. C. interpreted — See Criminal P. C. (1898), S. 263 (Aug) 94A

— *Pre.* — Interpretation of Statutes — General and Special Laws — See Limitation Act (1963), S. 29 (2) (Nov) 124A

— *Pre.* — Interpretation of Statutes — Retrospective operation (Nov) 124B

— *Pre.* — Interpretation of Statutes — Expression “may make an order under this section” in S. 488, Criminal P. C. — Interpretation of — See Criminal P. C. (1898), S. 488 (3) first proviso, Explanation (Dec) 136

— *Pre.* — Maxims — *Falsus in uno falsus omnibus* — See Evidence Act (1872), S. 3 (Nov) 116A

— *Pre.* — Precedent — Case is authority for what it decides (Feb) 30C

— *Pre.* — Precedents — ‘Dicta’, ‘obiter dicta’ and ‘ratio decidendi’ — Explained: (Aug) 94C

— *Pre.* — Precedents — Earlier Division Bench authority of same High Court not brought before judge sitting singly — View taken by Single Judge cannot prevail against view taken earlier by Division Bench of same High Court — (Per R. S. Bindra Addl. J. C.) (Aug) 94D

— S. 9 — Jurisdiction cannot be conferred by acquiescence, where there is no initial jurisdiction — This is so even in regard to Tribunal — Distinction in this respect in cases of inferior and superior Courts, pointed out — Reference of industrial dispute by Government which is not appropriate Government — Award is *prima facie* without jurisdiction even when no objection is taken to its jurisdiction — Industrial Disputes Act (1947), Ss. 10 and 15 (Jan) 16B

— S. 9 — Industrial Tribunal can decide whether dispute relates to major part or

Civil P. C. (contd.)

whether the reference is by appropriate Government — No Tribunal can confer jurisdiction upon itself by misconstruing a section — See Industrial Disputes Act (1947), S. 10 (Jan) 16C

— S. 9 — Acquisition of the territories of Goa, Daman and Diu by Military action — Is an act of State — So also acts of closing T. A. I. P. and terminating services of its staff are such acts — They are not justiciable and cannot be challenged in Municipal Courts — See Constitution of India, Art. 226 (June) 76A

— S. 9 — Retrenchment of an employee as an act of state — Not open to challenge in Municipal Courts — See Industrial Disputes Act (1947), S. 25-F (June) 76G

— S. 115 — Section is similarly worded as S. 8 (2) (b) (i) of Goa, Daman and Diu (Judicial Commissioner's Court) Regulation (1963) — Suit for possession under S. 6 of Specific Relief Act (1963), filed before Subordinate Judge — Judge coming to conclusion that sanction of Administrative Tribunal under S. 9 of Code of Comunidades (1961) was necessary before such suit was entertained — Revision remedy held not barred — Expression “case” includes civil proceedings other than suits, and is not restricted to entirety of proceeding in Civil Court (April) 37A

— S. 115 — Case — Meaning of — Revision remedy held not barred — See Specific Relief Act (1963), S. 6 (2) (a) (April) 37B

— S. 115 and O. 8, R. 10, 9 and 1 — “Material irregularity” in S. 115 — It relates to material defect of procedure — Powers of Revision Court (May) 53

— O. 8, R. 1 — Defect of procedure — See Civil P. C. (1908), S. 115 (May) 53

— O. 8, R. 9 — Defect of procedure — See Civil P. C. (1908), S. 115 (May) 53

— O. 8, R. 10 — “Material irregularity” in S. 115 — Relates to material defect of procedure — See Civil P. C. (1908), S. 115 (May) 53

— O. 39, R. 1 — Co-owners — Change in user — Aggrieved co-owner coming to Court with due promptness — Injunction can be decreed (Aug) 90

Constitution of India, Arts. 14 and 16 — Petitioner, servant of T. A. I. P. (Air Transport Service of Portuguese India) in former Portuguese Goa — Termination of service due to abolition of concern by Government of India after assuming administration of Goa — There is no violation of Arts. 14 or 16 — Merely because other employees of erstwhile Portuguese Administration had been absorbed by Government, petitioner cannot com-

Constitution of India (contd.)

plain that he was not given identical treatment — Selection or gradation for purposes of appointments as well as retrenchment cannot amount to denial of opportunity guaranteed by Art. 16 (June) 76F

— *Art. 16* — Termination of service due to abolition of concern by Government of India after assuming administration of Goa — There is no violation of Art. 14 or 16 — See Constitution of India, Art. 14

(June) 76F

— *Arts. 19 (1) (g) and 19 (6)* — Art. 17 of Portaria No. 7012 requiring inspection and certificate of Health authorities about fitness of property or part of building for occupation, does not contravene Art. 19 (1) (g) — It is in the interest of general public and constitute no unreasonable restriction on citizen in exercise of their right under Art. 19 (1) (g) (May) 61A

— *Art. 20* — Power of Legislature to make law retrospectively — Only bar is Art. 20 — See Civil P. C. (5 of 1908), Pre. (Nov) 124B

— *Art. 51* — Act of state — What is — Acquisition of Goa, Daman and Diu by Military Action is an act of state — See Constitution of India, Art. 226 (June) 76A

— *Art. 51* — Conflict of laws — See Constitution of India, Art. 311 (June) 76C

— *Art. 51* — Retrenchment of employee as an act of state — Not open to challenge in Municipal Courts — See Industrial Disputes Act (1947), S. 25-F (June) 76G

— *Art. 133 (1) (a), (b) and (c)* — Sub-cl. (c) is wider in scope than sub-cl. (a) and (b) — Cases not satisfying requirements of sub-cl. (a) and (b), may fall under sub-cl. (c) — Sub-cl. (c) does not confer an unlimited jurisdiction on High Court (April) 44A

— *Art. 133 (1) (c)* — Substantial question of law — Whether particular person is member of the "Hospicio" and other related questions regarding elections to General Body and Governing Council are neither substantial questions of law nor of general public importance — Question of law, in order to be substantial, may be of private importance but it should have importance from point of view of both parties to the litigation (April) 44B

— *Art. 133 (1) (c)* — Industrial dispute between barge crew and its employer — Reference under S. 10, Industrial Disputes Act, challenged by writ under Art. 226 on ground of incompetency of State Government to make reference — Court holding that reference by Administrator was reference by appropriate Government — Question whether barge crew fall within "dock worker" not answered by Court — Certificate under Art. 133 (1) (c) against decision of Court

Constitution of India (contd.)

in writ petition, held, could not be granted (Aug) 91

— *Art. 134 (1) (c)* — Certificate of fitness for appeal to Supreme Court — Conviction for murder and sentence of death by trial Court — High Court on appeal confirming conviction but altering sentence to one of life imprisonment — Discretion to grant certificate is to be exercised sparingly and with care — Certificate cannot be granted merely on ground of improper assessment or appreciation of evidence so as to afford another hearing on facts unless there is some error of fundamental nature — Supreme Court is not an ordinary Court of Criminal appeal — Leave refused (June) 66

— *Art. 134 (1) (c)* — Certificate of fitness — Supreme Court not an ordinary Court of criminal appeal — Case must involve something more than mere appreciation of evidence — Difference of opinion in the matter of sentence of death only between two Judges — No third Judge to resolve difference of opinion — Question whether supplementary order passed by a transferred Judge can legally form part of decision finally passed by the other Judge — Certificate granted (Dec) 142B

— *Art. 226* — Principle of natural justice — Even administrative orders have to conform to principles of fair play and natural justice (Jan) 6A

— *Art. 226* — Material facts must be disclosed by petitioner (Jan) 16A

— *Art. 226* — Decision of jurisdictional facts by Tribunal can be challenged by writ — See Industrial Disputes Act (1947), S. 10 (Jan) 16C

— *Art. 226* — Questions meant to be decided by Tribunal — High Court would not, in petition under Art. 226 use its jurisdiction — Questions of fact and mixed questions of law and fact, will not be entertained in writ proceeding — Industrial Disputes Act (1947), S. 10 (Jan) 16D

— *Art. 226* — Jurisdiction under — Nature of — Jurisdiction is extraordinary and has to be sparingly used (Feb) 30D

— *Art. 226* — Power of High Court under — Article 17 of Portaria No. 7012 — Certificate concerning godown in dispute — Health authorities have power to insert condition that cement should not be stored therein — Petitioner acquiescing in the terms of orders forming part of certificate — Orders not quashed under Article 226 (May) 61B

— *Arts. 226 and 51* — 'Act of State' — What is — Acquisition of territories of Goa, Daman and Diu by Government of India by military action is an act of State — So also acts of closing T. A. I. P. and terminating

Constitution of India (contd.)

services of its staff are such acts — Acts are not justiciable and cannot be challenged in municipal Courts (Jun) 76A

— *Art. 227* — Decision of Tribunal as to jurisdictional facts — Can be challenged by writ — *See Industrial Disputes Act (1947)*, S. 10 (Jan) 16C

— *Art. 239 (1)* — Reference of industrial dispute by Administrator (Lt. Governor) — Validity — *See Industrial Disputes Act (1947)*, S. 10 (Jan) 16E

— *Art. 240 (1) (d)* — Reference of industrial dispute by Administrator (Lt. Governor) — Validity — *See Industrial Disputes Act (1947)*, S. 10 (Jan) 16E

— *Art. 245* — Doctrine of implied repeal — Applicability — *See Limitation Act (1963)*, S. 29 (2) (Nov) 124A

— *Art. 245* — Power of Legislature to make law retrospectively — *See Civil Procedure Code (5 of 1908)*, Pre (Nov) 124B

— *Art. 246 (4)* — Reference of industrial dispute by Administrator (Lt. Governor) — Validity — *See Industrial Disputes Act (1947)*, S. 10 (Jan) 16E

— *Art. 265* — Unconstitutional tax and tax imposed without authority of law — Distinction — Substitution of coinage does not amount to enhancement of tax (Feb) 30A

— *Arts. 311, 51* — Conflict of laws — Contract of service — Acquisition of territory by conquest — Automatic termination of service of servants under prior Government — Servants when become servants of new Government — Law of Master and servant applies — Servants of T. A. I. P. (Air Transport Service of Portuguese India) of former Portuguese concern in Goa could not claim status of servants of Government of India — (Master and Servant) (Jun) 76C

— *Art. 311 (2)* — Protection under, can be claimed when termination of service is by way of punishment and not when post is abolished (Jun) 76E

— *Art. 364 (2) (a)* — Industrial dispute regarding major port of Marmagao — Reference by Administrator is legal even if dispute does not relate to major port — *See Industrial Disputes Act (1947)*, S. 10 (Jan) 16E

— *Art. 366 (10)* — Reference of dispute by Administrator (Lt. Governor) — Legality — *See Industrial Disputes Act (1947)*, S. 10 (Jan) 16E

Criminal Procedure Code (5 of 1908), S. 4 (1)

(h) — Report of police officer under S. 13, Public Gambling Act (1837) is not complaint under S. 4 (1) (h) — *See Criminal P. C. (1898)*, S. 247 (Sep) 104

— S. 96 — Order of seizure of paddy — Legality — *See Criminal P. C. (1898)*, S. 516A (Apr) 48B

Criminal P. C. (contd.)

— S. 98 (1) — Property which is subject-matter of complaint and is stated to be stolen, found lying in house of accused — S. 98 (1) is not applicable in terms apart from the fact there is no allegation either in the complaint or in examination of complainant that the house of accused is used for deposit or sale of stolen property (Apr) 48A

— S. 133 — Conditional order to cut tree — No direction need to be given for supporting the tree with a prop (Jun) 74A

— *Ss. 133, 137, 244* — Complaint under S. 133 — Complainant not leading any evidence in support of allegations — Nor making his own statement — Magistrate instead of stopping proceedings, examining respondents and their witnesses — Course adopted held was in clear violation of *Ss. 244 and 137* and as such the entire proceedings stood vitiated (Jun) 74C

— *Ss. 133 and 139* — Order under S. 133 — Quashing of, by High Court — No remand (Jun) 74D

— S. 137 — Complaint under S. 133 — Complainant not leading any evidence in support of allegations — Nor making his own statement — Magistrate instead of stopping proceedings, examining respondents and their witnesses — Course adopted held was in clear violation of *Ss. 244 and 137* — *See Criminal P. C. (1898)*, S. 133 (Jun) 74C

— S. 154 — Statement made by complainant in investigation after F. I. R. was lodged — Is hit by S. 162 — *See Criminal P. C. (1898)*, S. 162 (June) 68B

— S. 154 — Omission in F. I. R. — Proof — *See Evidence Act (1872)*, S. 3 (Nov) 116D

— S. 154 — F. I. R. not by eye-witness — Minor discrepancies between statements in report and evidence should be ignored — *See Evidence Act (1872)*, S. 3 (Nov) 116E

— *Ss. 162, 154* — Words 'no statement made by any person' — Statement made by complainant in investigation after F. I. R. was lodged under S. 154 — It is hit by S. 162 (June) 68B

— S. 162 — Scope — Section applies to statements made by accused person to police during investigation — Where such statement is confession made to a police officer, it is also hit by S. 25, Evidence Act (June) 68D

— *Ss. 200, 139* — Complaint under S. 323, Penal Code — Complainant examined in absence of accused — It is a serious objection affecting legality of trial (June) 67A

— S. 242 — Offence under S. 323, Penal Code — Particulars of offence not mentioned to accused except reference to section — There is no compliance with S. 242, Criminal P. C. (June) 67B

Criminal P. C. (contd.)

—S. 244 — Complaint under S. 133 — Complainant not leading any evidence in support of allegations — Nor making his own statement — Magistrate instead of stopping proceedings, examining respondents and their witnesses — Course adopted held was in clear violation of Ss. 244 and 137 — See Criminal P. C. (1898), S. 133 (June) 74C

—Ss. 247 and 4 (1) (h) — Public Gambling Act (1867), S. 13 — Report of police officer for offence under S. 13 — Not a complaint — Procedure under S. 247 not applicable (Sep) 104

—S. 260 — Sentence passed and not authorized that determines applicability in summary trials (Bindra J. contra) — AIR 1968 Goa 81, Dissented — See Criminal P. C. (1898), S. 263 (Aug) 94A

—Ss. 263, 264, 260, 414 — Interpretation of — Summary trial — Whether for purposes of Ss. 263, 264 and 414, the sentence "passed" or "authorised" is a decisive consideration (Aug) 94A

—S. 263 — Summary trial — Failure to examine accused under S. 342 — Trial is vitiated — See Criminal P. C. (1898), S. 342 (Aug) 94B

—S. 263 (g) — Not only plea of the accused but also his examination should be recorded (June) 67D

—S. 263 (h) — Reasons for conviction should be stated (June) 67C

—S. 264 — Sentence passed and not authorized that determines applicability in summary trials (Bindra J. contra) — AIR 1968 Goa 81, Dissented — See Criminal P. C. (1898), S. 263 (Aug) 94A

—S. 271 — Rash and negligent act — Statement of accused that accident was due to failure of brakes — Not a plea of guilty — See Penal Code (1860), S. 304-A (Apr) 39B

—Ss. 342, 263 — Summary trial under S. 263 — Provision of S. 342 is applicable — Failure to examine accused — Accused is prima facie prejudiced if he is not examined at all — It is just and proper to conclude that defence version could not be put before Court — Trial stands vitiated — (Per R. S. Bindra, Addl. J. C.) (Aug) 94B

—S. 359 — Examination of witnesses — Mainly function of parties — Judge can put supplementary questions in order to discover the truth without identifying himself with any party — See Evidence Act (1872), S. 165 (June) 68C

—S. 367 — Appreciation of evidence (Apr) 40A

—S. 367 — Accused previous convicts — Prosecution not relieved of its duty to prove the case against them — Conviction cannot

Criminal P. C. (contd.)

be sustained on basis of conjectures and surmises — See Evidence Act (1872), S. 3 (June) 68F

—S. 367 — Minor discrepancies between statements in F. I. R. and evidence — Effect — See Evidence Act (1872), S. 3 (Nov) 116E

—S. 367 — Appreciation of evidence — Only broad facts to be considered — See Evidence Act (1872), S. 3 (Nov) 116H

—S. 414 — Sentence passed and not authorized that determines applicability in summary trials (Bindra J. contra) — AIR 1968 Goa 81, Dissented — See Criminal P. C. (1898), S. 263 (Aug) 94A

—Ss. 417, 423 — Presumption of innocence — Benefit of doubt — Acquittal in appeal — High Court will not disturb finding of fact (April) 40B

—S. 417 — Powers of High Court — Identical in appeals against conviction or against acquittal — See Criminal P. C. (1898), S. 423 (Aug) 87A

—S. 423 — Benefit of doubt — Acquittal in appeal — Interference by High Court — See Criminal P. C. (1898), S. 417 (Apr) 40B

—Ss. 423 and 417 — Powers of High Court (Aug) 87A

—S. 423 — Appreciation of evidence — Opinion of trial judge has to be given due weight — See Evidence Act (1872), S. 3 (Nov) 116C

—Ss. 435, 439 — Offences under Ss. 504 and 323, Penal Code tried as summary case — On some altercations between Magistrate and Counsel for accused, latter withdrawing his vakalatnama after cross-examining some of prosecution witnesses — Upon Counsel's withdrawal, accused participating in trial and himself examining defence witnesses without moving Court that he would like to engage another advocate — On conviction, accused making grievance that prejudice was caused to him because his counsel could not cross-examine one of prosecution witnesses — On revision, conclusions of magistrate in support of conviction found to have been based on evidence and order of conviction found neither illegal nor improper — Nor was there any defect of jurisdiction — Case held not fit for interference in exercise of jurisdiction under Ss. 435 and 439 (Apr) 47

—Ss. 435, 439 — Revision relief is not a matter of mere formality — High Court does not sit in revision as Court of appeal to appreciate evidence — Concurrent finding that applicant defamed the complainant — Revision petition is liable to be rejected in limine (May) 52

—S. 435 — Powers of Sessions Judge to appraise evidence (June) 74B

Criminal P. C. (contd.)

—S. 439—Case held not fit for interference in exercise of jurisdiction under the section —See Criminal P. C. (1898), S. 435 (Apr) 47

—S. 439—Revision relief is not a matter of mere formality—High Court does not sit in revision as a Court of appeal to appreciate evidence — See Criminal P. C. (1898), S. 435 (May) 52

—S. 439—Complainant in a case under S. 323, Penal Code, examined in absence of accused —It is a serious objection affecting legality of trial—See Criminal P. C. (5 of 1898), S. 200 (June) 17A

—S. 439—Power of High Court in revision — It is not expected to appreciate and assess value of evidence for first time in revision — But where conviction is influenced by inadmissible evidence and basic principles of law relating to accomplice evidence have not been followed in recording conviction, High Court would be justified in appreciating and assessing evidence (June) 68E

—S. 439—Order under S. 133 — Quashing of, by High Court—No remand—See Criminal P. C. (1898), S. 133 (June) 74D

—S. 488 (3), *First proviso, Explanation*—Applicability — Causes mentioned in Explanation can be considered at the stage of an order under sub-s. (1) of S. 488 — Expression "may make an order under this section" in first proviso, interpretation of — Object of proceedings under S. 488. AIR 1968 Pat 139, Dissented from (Dec) 136

—S. 509—Medical evidence—Nature of — See Evidence Act (1872), S. 45 (Nov) 116G

—S. 511—Previous convictions must be properly proved in accordance with law (June) 68G

—Ss. 516-A, 96 — Complaint case against accused for paddy theft—Paddy found from house of accused not produced before Magistrate — Question of ownership involved — Order of Magistrate directing seizure of paddy from house of accused held to be not legal — S. 516-A not attracted (Apr) 48B

—S. 522 (1)—Force or criminal force contemplated — Applicant not in physical possession of house—Dispossession of, by placing lock over lock — No force used to his person — Section not attracted (Apr) 45

—S. 540 — Examination of witnesses — Witnesses are to be examined on behalf of Court in the interest of justice — Court can put supplementary questions to them to ascertain the truth, without identifying with any party—See Evidence Act (1872), S. 165 (June) 68C

Easements Act (5 of 1882), Ss. 4, 13 and 15 —

Sub-soil rights—Right to extract minerals is a valuable right—Any subsidiary right lead-

Easements Act (contd.)

ing to the enjoyment of the minerals and their extraction is also a valuable right — Right to extract minerals acquired under Portuguese Government Decree of 3-11-1905 is a vested right (Jan) 6E

—S. 13—Sub-soil rights—Right to extract minerals is a valuable right—See Easements Act (1882), S. 4 (Jan) 6E

—S. 15—Right to extract minerals is a valuable right — Any subsidiary right leading to enjoyment of the minerals and their extraction is also a valuable right—See Easements Act (1882), S. 4 (Jan) 6E

Evidence Act (1 of 1872), S. 3—Appreciation of evidence—See Criminal P. C. (1898), S. 367 (Apr) 40A

—S. 3—Finding of fact based on appreciation of evidence — Interference by High Court—See Criminal P. C. (1898), S. 417 (Apr) 40B

—Ss. 3, 5 and 101-104—Accused being previous convicts — Prosecution still is not relieved of its duty to prove its case beyond reasonable doubt — Conviction cannot be sustained on basis of conjectures and surmises (June) 68F

—Ss. 3, 5 — Single witness — Evidentiary value of—Falsus in uno falsus in omnibus (Nov) 116A

—S. 3 — Witnesses related inter se — No ground for discrediting their evidence (Nov) 116B

—S. 3—Appreciation of evidence and credibility of witnesses — Opinion of Trial Judge has to be given due weight (Nov) 116C

—S. 3 — Complainant failing to mention name of single eye-witness in F.I.R.—Omission has to be proved satisfactorily (Nov) 116D

—S. 3—F. I. R. not by an eye-witness but based on information received — Minor discrepancies between statements in report and evidence should be ignored (Nov) 116E

—S. 3—Appreciation of evidence — Only broad facts to be considered (Nov) 116H

—S. 3—Suppression of truth by witness on minor point — Does not discredit evidence which otherwise is true (Nov) 116M

—S. 5—Accused previous convicts — Prosecution not relieved of its duty to prove its case beyond reasonable doubt—See Evidence Act (1872), S. 3 (June) 68F

—S. 5—Single witness—Evidentiary value —See Evidence Act (1872), S. 3 (Nov) 116A

—Ss. 5, 8 — Absence of accused from his house for couple of days — Not sufficient to prove abscondence (Nov) 116J

—S. 8—Production of articles by accused from ditch — Relevancy—See Evidence Act (1872), S. 27 (Nov) 116F

Evidence Act (contd.)

—S. 8—Absconding — Can be relevant as explaining subsequent conduct under S. 8

(Nov) 116I

—S. 8 — Abscondence — Proof—See Evidence Act (1 of 1872), S. 5

(Nov) 116J

—S. 8 — Motive—Proof—See Penal Code (1860), S. 40

(Nov) 116K

—S. 25 — Statement made by accused to police during investigation — Where such statement is confession it is hit by the section—See Criminal P. C. (1898), S. 162

(June) 68D

—Ss. 27, 8 — Production of articles by accused from ditch—Statements accompanying production—Relevancy

(Nov) 116F

—S. 45—Medical evidence—Nature of

(Nov) 116G

—S. 57—Court can take judicial notice of fact that by 19-12-1961 Territories of Goa, Daman and Diu were completely liberated from colonial rule

(June) 76B

—Ss. 101-104—Accused previous convicts — Prosecution not relieved of its duty to prove the case beyond reasonable doubt — See Evidence Act (1872), S. 3

(June) 68F

—S. 114, *Illus (b)*—Accomplice evidence—Value of — Necessity of corroboration — See Evidence Act (1872), S. 133

(June) 68A

—Ss. 133, 114, *Illus. (b)*, 146—Sections are to be read together — Accomplice evidence — Value of—Necessity of corroboration

(June) 68A

—S. 146—Accomplice evidence—Value of —Necessity of corroboration—See Evidence Act (1872), S. 133

(June) 68A

—S. 165—Examination of witnesses—It is mainly the function of parties—Witnesses are to be examined on behalf of Court in the interest of justice—Judge can put supplementary questions in order to discover truth without identifying himself with any party

(June) 68C

General Clauses Act (10 of 1897), S. 3 (6) (c)

—In relation to State or Central Government appropriate Government is Administrator — See Industrial Disputes Act (1947), S. 10

(Jan) 16E

—S. 3 (8) (b)—In relation to State or Central Government appropriate Government is Administrator—See Industrial Disputes Act (1947), S. 10

(Jan) 16E

—S. 6 — Implied repeal—See Civil P. C. (1903), Preamble

(Feb) 30B

Goa, Daman and Diu Administration Act (1 of 1962), S. 3 — Portuguese Code ceased to be general law after appointed day i.e. 20-12-1961—See Limitation Act (1963), S. 29 (2)

(Nov) 124A

—S. 5—By virtue of S. 5, Portuguese Code became special or local law—See Limitation Act (1963), S. 29 (2)

(Nov) 124A

Goa, Daman and Diu Administration Act (contd.)

—S. 9 (1) — Replacing S. 7 (1) of Ordinance — Effect of — Validation of order of Military Governor dated 8-1-1962 winding up T. A. I. P. (Air Transport Service of Portuguese India) and terminating services of its staff

(Jun) 76D

Goa, Daman and Diu Agricultural Tenancy Act (7 of 1964).

See under Tenancy Laws.

Goa Daman and Diu (Judicial Commissioner's Court) Regulation (10 of 1963), S. 7 (2), Proviso—

Difference between two Judges of Bench — Opinion that confirms the order of lower Court prevails — See Criminal P. C. (1898), S. 263

(Aug) 94A

—S. 7 (2), *Proviso*—Proviso is not bad in law merely because it provides for confirmation of order or sentence of lower Court in case of difference of opinion between two Judges, though presence of third Judge to resolve conflict would be better alternative

(Dec) 142A

—S. 8 (2) (b) — Suit for eviction of tenant filed by landlord under Portuguese Civil P. C.—Relief prayed for, granted — Revision by tenant — Contention that by combined operation of Ss. 4, 8 (1) and 53 (2) read with S. 2 (11) (i) of Goa, Daman and Diu Agricultural Tenancy Act, Judge was barred from entertaining suit for eviction — Contention raised in suit but not pressed — Tenant held could not re-agitate this point in revision—Relief granted not interfered in revision

(Apr) 42A

—S. 8 (2) (b) (i) — Revision — Maintainability — See Specific Relief Act (1963), S. 6 (2) (a)

(Apr) 37B

Goa, Daman and Diu (Laws) Regulation (12 of 1962), S. 4 (2) (d)—Scope—Clause applies only to such investigations that were pending when the Regulation came into force—Investigations commencing after Regulation come into force have to be under Criminal P. C. (1898) even if offence has been committed prior to the coming into force of Regulation—Lt. Governor's order D/-6-11-63 directing investigations in relation to offences committed prior to Criminal P. C. being made applicable, according to law in force in the territory, held was ultra vires (May) 56

—Cl. 3 (i) — Reference of industrial dispute by Administrator (Lt. Governor) — Validity — See Industrial Disputes Act (1947), S. 10

(Jan) 16C

—Cl. 5 (1) — Reference of industrial dispute by Administrator (Lt. Governor) — Validity—See Industrial Disputes Act (1947), S. 10

(Jan) 16E

—Cl. 6 (1) (b) — Reference of industrial dispute by Administrator (Lt. Governor)—

Goa, Daman and Diu (Laws) Regulation (contd.)
 Validity—*See* Industrial Disputes Act (1947),
 S. 10 (Jan) 16E

Goa Portaria No. 7012, Art. 17 — Constitution-
 ality of — *See* Constitution of India,
 Arts. 19 (1) (g), 19 (6) (May) 61A

— *Art. 17* — Powers of Health Authorities—
See Constitution of India, Art. 226

(May) 61B

**Government of Union Territories Act (20 of
 1963), S. 46 (2) (3)**—Reference of industrial
 dispute by Administrator (Lt. Governor) —
 Validity—*See* Industrial Disputes Act (1947),
 S. 10 (Jan) 16E

**Industrial Disputes Act (14 of 1947), S. 2
 (a) (i)**—In relation to State or Central Gov-
 ernment appropriate Government is Ad-
 ministrator — *See* Industrial Disputes Act
 (1947), S. 10 (Jan) 16E

— *S. 10* — Reference of industrial dispute
 by Government which is not appropriate
 Government—Award is prima facie without
 jurisdiction even when no objection to its
 jurisdiction is taken—*See* Civil P. C. (1908),
 S. 9 (Jan) 16B

— *S. 10* — Decision of jurisdictional facts
 — Tribunal can decide whether dispute
 relates to major port and whether reference
 is by appropriate Government — Decision
 can be challenged by writ—AIR 1954 Bhopal
 17, Dissented from (Jan) 16C

— *S. 10* — Questions meant to be decided
 by Tribunal — High Court would not in
 petition under Art. 226 use its jurisdiction—
See Constitution of India, Art. 226: (Jan) 16D

— *Ss. 10, 2 (a) (i)* — Industrial dispute re-
 garding major port Marmugao — Reference
 by appropriate Government—Reference by
 Administrator (Lt. Governor) is legal even
 if dispute does not relate to major port—In
 relation to State or Central Government ap-
 propriate Government is Administrator

(Jan) 16E

— *S. 15*—Jurisdiction cannot be conferred
 by acquiescence, where there is no initial
 jurisdiction — This is so even in regard to
 Tribunal—*See* Civil P. C. (1908), S. 9

(Jan) 16B

— *S. 25F*—Scope — Retrenchment of em-
 ployees as an act of State—Section does not
 apply (Jun) 76G

**Industrial Disputes (Central) Rules (1957),
 R. 2 (f)**—Reference of industrial dispute by
 the Administrator (Lt. Governor)—Validity—
See Industrial Disputes Act (1947), S. 10

(Jan) 16E

Interpretation of Statutes — Legislative
 intent—S. 264, Criminal P. C. interpreted —
See Criminal P. C. (1898), S. 263 (Aug) 94A

Land Acquisition Act (1 of 1894), S. 23 —
 Valuation of property acquired—*See* Portu-

1969 (Goa) Indexes 1(2)—4 pages,

Land Acquisition Act (contd.)

guese Law No. 2030, D/- 22-6-1948, S. 14,

(Jan) 1A

— *S. 23*—Potentialities of property can be
 taken into account while determining just
 compensation — *See* Portuguese Law No.
 2030, D/- 22-6-1948, S. 10 Jan 1B

**Limitation Act (36 of 1963), S. 29 (2) and
 Arts. 74, 30, 65, 31 (a), 32**—Extension of Act
 to Diu, Daman, Goa territory — Effect—
 Arts. 529 and 535 of Portuguese Civil Code
 are not repealed by corresponding Arts. 74,
 31 and 65 of 1963 Act (Nov) 124A

— *Art. 30*—Article 30 does not refer to
 Portuguese Civil Code—*See* Limitation Act
 (1963), S. 29 (2) (Nov) 124A

— *Art. 31* — Extension of Act to Diu,
 Daman, Goa territory—Effect—*See* Limita-
 tion Act (1963), S. 29 (2) (Nov) 124A

— *Art. 32*—Article 32 does not refer to
 Portuguese Civil Code — *See* Limitation Act
 (1963), S. 29 (2) (Nov) 124A

— *Art. 65*—Extension of Act to Diu, Daman,
 Goa territory—Effect—*See* Limitation Act
 (1963), S. 29 (2) (Nov) 124A

— *Art. 74* — Extension of Act to Diu,
 Daman, Goa territory—Effect—*See* Limita-
 tion Act (1963), S. 29 (2) (Nov) 124A

Maxims — *Leges posteriores priores con-
 trarias abrogant*—*See* Civil P. C. (1908), Pre-
 amble (Feb) 30B

Mineral Concession Rules, 1960, Ch. IV—Provi-
 sions of Rules are prospective — *See* Mines
 and Minerals (Regulation and Development)
 Act (1957), S. 4 (1), Proviso (Jan) 6B

**Mines and Minerals (Regulation and Develop-
 ment) Act (67 of 1957), Ss. 4 (1), Proviso and
 9**—Scope—Provisions of S. 4 (1) and rules
 are prospective while that of S. 9 are retros-
 pective—Proviso to S. 4 (1) preserves and
 respects vested rights — Rights to extract
 china clay granted under Portuguese Govern-
 ment Decrees of 1905 and 1906, respective-
 ly known as "Regulamento sobre a lavra de
 pedreiras nas Provincias ultramarinas" and
 "Regulamento das minas" before 1-10-1963
 when the Act was brought into force in
 Goa, Daman and Diu, held were vested
 rights and were not affected (Jan) 6B

— *S. 9*—Provisions of the section are re-
 trospective—*See* Mines and Minerals (Regu-
 lation and Development) Act (1957), S. 4 (1),
 Proviso (Jan) 6B

Motor Vehicles Act (4 of 1939), S. 31 —
 Ownership of car not transferred to the
 name of accused in the records of R. T. O.,
 Cannot go against the accused in this case
 as the Act came into force long after the
 sale in his favour—*See* Criminal P.C. (1898),
 S. 367 (Apr) 40B

Motor Vehicles Act (contd.)

—S. 110A — Compensation — Determination—Principles—*See* Motor Vehicles Act (1939), S. 110B. (May) 50

—Ss. 110B and 110A—Compensation—Determination—Principles. (May) 50

Penal Code (45 of 1860), S. 40—Conviction under S. 302, Penal Code—Motive—Proof of —When not necessary to sustain conviction (Nov) 116K

—S. 80 — Offence under—Ingredients — Direct nexus between death and negligent act required—Accused driving jeep — No rashness or negligence proved — Accused held not liable — *See* Penal Code (1860), S. 304A (Aug) 87B

—S. 300, Cl. (1)—Intention includes foresight of certainty (Nov) 116L

—S. 302—Conviction under — Motive — Proof — Necessity — *See* Penal Code (1860), S. 40 (Nov) 116K

—Ss. 302, 304, Part II—Accused hitting deceased on head with stick in heat of passion—No evidence that accused deliberately aimed at the head—On facts, accused held liable under S. 304 Part II and not under S. 302 (Nov) 116N

—S. 304A—Ingredients of (Apr) 39A

—S. 304A—Rash and negligent act—Mixed question of fact and law—Statement of accused that accident was due to failure of brakes—Not a plea of guilty — Conviction and sentence on such plea not proper (Apr) 39B

—Ss. 304A and 80—Offence under—Ingredients (Aug) 87B

—S. 304, Part II—Accused hitting deceased on head with stick in heat of passion — No evidence that accused deliberately aimed at the head—On facts, accused, held liable under S. 304, Part II—*See* Penal Code (1860), S. 302 (Nov) 116N

—S. 323—Offence under, tried as summary case—Conviction for — Interference under Ss. 435 and 439 held not possible—*See* Criminal P. C. (1898), S. 435 (Apr) 47

—S. 323—Complainant examined in absence of accused—It is a serious objection affecting legality of trial—*See* Criminal P.C. (1898), S. 200 (June) 67A

—S. 323—Offence under — Particulars of, not given to accused except reference to section — Non-compliance with S. 242, Cr. P. C. — *See* Criminal Procedure Code (5 of 1898), S. 242 (Jun) 67B

—S. 349 — Force or criminal force contemplated — *See* Criminal P. C. (1898), Section 522 (1) (Apr) 45

—S. 350 — Force or criminal force contemplated — *See* Criminal P. C. (1898), Section 522 (1) (Apr) 45

Penal Code (contd.)

—S. 379 — Conviction for theft and unlawful possession of telephone wires—Held, that there was no compliance with S. 7 of Telegraph Wires (Unlawful Possession) Act and the Magistrate has no power to take cognizance of offence under that Act—Conviction for theft however was proper—*See* Telegraph Wires (Unlawful Possession) Act (1950), S. 7 (May) 55

—S. 405—Acquittal in appeal — Interference by High Court — *See* Criminal P. C. (1898), S. 417 (Apr) 40B

—S. 406 — Acquittal in appeal—Interference with by High Court — *See* Criminal P. C. (1898), S. 417 (Apr) 40B

—S. 499 — Concurrent finding that applicant defamed the complainant — Revision petition is liable to be rejected in limine—*See* Criminal P. C. (1898), S. 435 (May) 52

—S. 504—Offence under tried as summary case — Conviction — Case held not fit for interference under Ss. 435 and 439, Criminal P. C.—*See* Criminal P. C. (1898), S. 435 (Apr) 47

Portuguese Civil Code, Art. 529—Extension of Limitation Act (1963) to Diu, Daman and Goa territory—Effect—*See* Limitation Act (1963), S. 29 (2) (Nov) 124A

—Art. 535 — Extension of Limitation Act (1963) to Diu, Daman & Goa territory—Effect—*See* Limitation Act (1963), S. 29 (2) (Nov) 124A

Portuguese Decree No. 37758 D/- 22.2.1960, S. 13 — Valuation of acquired property — Real value cannot be determined by taking into consideration its purpose as landed property — *See* Portuguese Law No. 2030 D/- 22.6.1948, S. 14 (Jan) 1A

—S. 33 para unico—Valuation of property acquired — Reliance on S. 33 para unico is improper — *See* Portuguese Law No. 2030 D/- 22.6.1948, S. 14 (Jan) 1A

Portuguese Government Decree of D/- 20.9.1906 — Regulamento das minas, Art. 3—Expression "owner of the soil"—Meaning—Expression ought not to be narrowly construed—A lessee obtaining a lease of 2000 years is a qualified owner of the soil and his consent is effective (Jan) 6F

—Decree of 3.11.1905—Regulamento sobre a Lavra de pedreiras nas Provincias ultramarinas, Art. 1 — China clay is covered by Art. 1 (Jan) 6G

Portuguese Law No. 2030, D/- 22.6.1948, S. 10 —Valuation of property—Just compensation—Value of property has to be determined in accordance with S. 10—*See* Portuguese Law No. 2030 D/- 22.6.1948, S. 14 (Jan) 1A

—S. 10—'Just compensation'—Determination — Potentialities of property can be taken into account — S. 607 of Portuguese

Portuguese Law No. 2030 (*cont'd.*)
 Civil Procedure Code does not apply (Jan) 1B
 —S. 11 — Valuation of property acquired
 —Real value cannot be determined by taking into consideration its purpose as landed property—See Portuguese Law No. 2030 D/- 6-1948, S. 14 (Jan) 1A
 —Ss. 14, 10 and 11 and Portuguese Decree No. 37758, D/- 22-2-1950, Ss. 13 and 33 *para unico*—Valuation of property—Just compensation—Acquired property not meant either for town planning or for opening routes of communication—Real value of the property has to be determined in accordance with S. 10 — Reliance on S. 33 *para unico* is improper — Real value cannot be determined by taking into consideration its purpose as landed property (Jan) 1A
 Ports Act (15 of 1905), S. 3 (5)—Reference of industrial dispute regarding major port by (Lt. Governor) Administrator — Validity—See Industrial Disputes Act (1947), S. 10 — (Jan) 15E
 Prevention of Corruption Act (2 of 1947), S. 5A—Sanction to investigate—Prosecution for offence under S. 161, Penal Code — Magistrate going through all relevant facts placed before him — Complainant and also police inspector examined—Order of Magistrate according sanction to investigate is not invalid—From the fact that the Special Judge had permitted to examine the Magistrate and the prosecution had failed to do so it could not be concluded that the order had not been established to be valid in the eye of law—Even if there is any irregularity in investigation and in compliance with S. 5A, the trial cannot be held illegal unless there is miscarriage of justice (Sep) 103A
 —S. 6 (1)—Accused permanent employee of Municipality — Accused removable from service by the Municipality — Sanction to prosecute accorded by Lt. Governor of Goa is invalid — Applicability of provisions of Estatute de Funcionalismo Ultramarino and Reforma Administrativa Ultramarina considered (Sep) 103B
 —S. 6 (1) — Trial of accused for offences under S. 161, Penal Code and S. 5 (2) of Prevention of Corruption Act — Sanction to prosecute granted in respect of S. 161, Penal Code alone — Whole trial is not vitiated—Trial of accused under S. 161 would be valid (Sep) 103C
 —S. 6 (1)—Sanction to prosecution—Previous sanction is necessary—Sanction given after cognizance of case taken by special Judge—Trial is *ab initio* void and the subsequent sanction cannot legalise the trial (Sep) 105D
 —S. 6 (1)—Trial without valid sanction—

Prevention of Corruption Act (*cont'd.*,
 Trial quashed—Order of acquittal cannot be passed — Fresh prosecution after obtaining sanction not barred (Sep) 106E
 Probation of Offenders Act (20 of 1959), Ss. 4 (1), 6 (1) and (2) — Conviction of accused of 19 years age under S. 392, Penal Code — Court by exercising power under S. 6 (1) releasing accused without calling for report from Probation Officer—Order is illegal (Nov) 115
 —S. 6 (1) & (2) — Order under—Legality of—See Probation of Offenders Act (1959), S. 4 (1) (Nov) 115
 Public Gambling Act (3 of 1867), S. 13 — Report of Police officer under S. 13 is not complaint under S. 4 (1) (h), Criminal P. C. (1893)—See Criminal P. C. (1893), S. 247 (Sep) 104
 Specific Relief Act (47 of 1963), S. 6 (2) (a) — Suit for possession under—Code of Comunidades (1961), Ss. 9, 4, 400, 371, 349—Sanction of Administrative Tribunal under S. 9 not obtained—Permission only of Administrator obtained—Suit neither conservative nor executive—Ss. 4 and 400 not attracted—S. 371 prescribing procedural formalities, not applicable—Formalities mentioned in S. 349 should be followed — Case whether case is covered by second exception of S. 9 — Question is necessary for deciding maintainability of suit—Case remanded in revision with direction to decide this question (Apr) 37B
 Telegraph Wires (Unlawful Possession) Act (74 of 1950), S. 7 — Conviction for theft and unlawful possession of telephone copper wire—Notification delegating power to file complaint as required under S. 7 (1) published in fact in Gazette of India as cited in the footnote to S. 7 in AIR Manual, Vol. 15 P. 592 but not brought on record—Complainant not stating that the complaint was made by or under authority of Central Government or that he was specifically empowered to file that complaint — Held that there was no compliance with S. 7 and the Magistrate had no power to take cognizance of the offence under Telegraph Wires (Unlawful Possession) Act — Conviction and sentence for the offence of theft under S. 379, Penal Code was, however, proper (May) 55

TENANCY LAWS

—Goa, Daman and Diu Agricultural Tenancy Act (7 of 1964), S. 2 (11) (i)—Point raised in suit but not pressed by tenant — Cannot re-agitate it in revision — See Goa, Daman and Diu (Judicial Commissioner's Court) Regulation (1993), S. 5 (2) (b) (Apr) 42A
 —S. 4—Suit for eviction against tenant—Contention as regards entertaining of the suit

**Tenancy Laws—Goa, Daman and Diu Agri-
cultural Tenancy Act (contd.)**
 raised but not pressed — Tenant held could
 not re-agitate the point in revision — *See*
 Goa, Daman and Diu (Judicial Commis-
 sioner's Court) Regulation (1963), S. 8 (2) (b)
 (Apr) 42A
 — S. 8 (1) — Revision by tenant — Point as
 to entertainment of suit raised but not
 pressed in lower Court — Cannot be re-
 agitated in revision — *See* Goa, Daman and
 Diu (Judicial Commissioner's Court) Regu-
 lation (1963), S. 8 (2) (b) (Apr) 42A
 — S. 55 (2) — Revision — Point raised in
 suit given up — Point cannot be reagitated in
 revision — *See* Goa, Daman and Diu (Judicial
 Commissioner's Court) Regulation (1963),
 S. 8 (2) (b) (Apr) 42A

**Transfer of Property Act (4 of 1882), Pre.,
 Ss. 1 and 114A** — Act operates prospectively —
 Contract of lease executed under relevant
 provisions of Portuguese law in 1961 — Act
 coming into force in Goa in November 1965

T. P. Act (contd.)

— Parties acquiring certain vested rights
 and incurring certain liabilities under con-
 tracts of lease executed before T. P. Act
 came into force — In absence of any provi-
 sion giving retrospective effect, such con-
 tracts held would not be affected — Suit filed
 by landlord for eviction of tenant under
 above lease without complying with S. 114A
 — Suit held not liable to be dismissed —
 S. 114A applies only to leases executed
 under the Act (Apr) 42B

— S. 1 — Act operates prospectively — *See*
 Transfer of Property Act (1882), Pre.

(Apr) 42B
 — S. 114A — Act operates prospectively —
 Section applies only to leases under the Act
 — *See* Transfer of Property Act (1882), Pre.
 (Apr) 42B

Words and Phrases—"Case" — *See* Civil P. C.
 (1908), S. 115 (Apr) 37A

— Dicta, obiter dicta and ratio decidendi
 — Meaning of — *See* Civil P. C. (1908),
 Preamble (Aug) 94C

SUBJECTWISE LIST OF CASES DISSENTED FROM IN A. I. R. 1969 GOA

Criminal Procedure Code (5 of 1898)

— S. 260 — AIR 1968 Goa 81 — Diss. A I R
 1969 Goa 94A (Aug)
 — S. 263 — AIR 1968 Goa 81 — Diss. A I R
 1969 Goa 94A (Aug)

Criminal P. C. (contd.)

— S. 264 — AIR 1968 Goa 81 — Diss. A I R
 1969 Goa 94A (Aug)
 — S. 414 — AIR 1968 Goa 81 — Diss. A I R
 1969 Goa 94A (Aug)

LIST OF CASES DISSENTED FROM, IN A. I. R. 1969 GOA

(68) AIR 1968 Goa 81 = 1968 Cri L J 1167, Antonio Vicente Fonseca v.
 State. — Diss. AIR 1969 Goa 94A (Aug)

COMPARATIVE TABLE

A. I. R. 1969 Goa = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [C N 1]	---	45 [C N 10]	---	66 [C N 19]	---	94 [C N 27]	---
6 [C N 2]	---	1969 Cri L J 469	---	1969 Cri L J 737	---	1969 Cri L J 1046	---
16 [C N 3]	---	47 [C N 11]	---	67 [C N 20]	---	104 [C N 28]	---
(1969) 2 Lab L J 535	---	1969 Cri L J 470	---	1969 Cri L J 738	---	1969 Cri L J 1131	---
1969 Lab I C 151	---	48 [C N 12]	---	68 [C N 21]	---	106 [C N 29]	---
30 [C N 4]	---	1969 Cri L J 608	---	1969 Cri L J 739	---	1969 Cri L J 1384	---
37 [C N 5]	---	50 [C N 13]	---	74 [C N 22]	---	115 [C N 30]	---
53 [C N 6]	---	52 [C N 14]	---	1969 Cri L J 744	---	1969 Cri L J 1592	---
1969 Cri L J 466	---	1969 Cri L J 609	---	76 [C N 23]	---	116 [C N 31]	---
40 [C N 7]	---	53 [C N 15]	---	1969 Lab I C 942	---	1969 Cri L J 1393	---
1969 Cri L J 457	---	55 [C N 16]	---	87 [C N 24]	---	124 [C N 32]	---
42 [C N 8]	---	1969 Cri L J 728	---	1969 Cri L J 977	---	136 [C N 33]	---
44 [C N 9]	---	56 [C N 17]	---	90 [C N 25]	---	1969 Cri L J 1470	---
		51 [C N 18]	---	91 [C N 26]	---	142 [C N 34]	---
						1969 Cri L J 1497	---

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GUJARAT SECTION

WITH COMPARATIVE TABLES FOR

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GUJARAT HIGH COURT

1969

CHIEF JUSTICE

The Hon'ble Mr. Justice P. N. Bhagwati.

PUISNE JUDGES

The Hon'ble Mr. Justice V. B. Raju, M.A., Dip. in Economics (Mad.), I.C.S.
(up to 9-2-1969).

"	"	A. R. Bakshi, B.A., LL.B., Bar-at-law. (up to 25-6-1969).
"	"	B. J. Diwan.
"	"	N. K. Vakil.
"	"	J. B. Mehta.
"	"	M. U. Shah.
"	"	N. G. Shelat.
"	"	Akbar S. Sarela.
"	"	A. D. Desai.
"	"	J. M. Sheth.
"	"	V. R. Shah.

ADDITIONAL JUDGES

The Hon'ble	B. G. Thakor. (up to 26-8-1969)
"	D. A. Desai.
"	B. R. Sompura. (up to 22-12-1969)
"	S. N. Patel (From 23-4-1969).
"	S. H. Sheth Do.
"	Y. D. Desai Do.
"	D. P. Desai Do.
"	M. P. Thakkar (From 2-7-1969).
"	T. U. Mehta (From 12-11-1969).

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NOMINAL TABLE

Abdul Aziz Ansari v. Bhagwan- das Nathubhai	(May) 147	Kishorchandra Bhanushanker v. Bhavnagar Municipality	(Oct) 290
Ajitrai Shivprasad v. Bai Vasu- mati	(Feb) 48	Koli Trikam Jivraj v. State of Gujarat	(Mar) 69
Babusing Jodhasing Jamadar v. State	(Nov) 324	Kumbhar Dhulabhai v. Patel Ganeshbhai	(June) 176
Bai Jayaben Girjashanker Oza v. Bai Bhanumati Damji	(July) 222	Lalmiya Sulamhusen v. Shaikh Ahmed Shaikh Dawood	(June) 166
Bai Kanku Punamchand Kanji- bhai v. Victorbhai Kanjibhai	(Aug) 239	Laxmidas Damodardas v. L. Chandrabhan	(Jan) 23
Bai Vasanti v. Suryaprasad Ishvar- lal Patel	(May) 152	Madhavji Khatau v. Trikamdas Narandas	(July) 205
Bharat Sarvodaya Mills Co. Ltd., Ahmedabad v. M/s. Mohatta Brothers a firm	(June) 178	Maharao Shri Madansinhji v. State of Gujarat	(Sep) 270
Chaki Jakeria Abdulla v. Memon Ismail Umar	(Apr) 122	Mahmadhusein Kurbanhusein v. Onali Fidaali	(Nov) 334
Chunilal Dahyabhai v. Dha- ramshi Nanji	(July) 213	Mahommed Yasin v. State of Gujarat	(Sep) 267
Collector of Panchmahals v. Desai Keshavlal Panalal	(Oct) 276	Modi Narandas Chhganlal v. Shah Jamnadas Maneklal	(Mar) 76
Dawood Mahomed v. Union of India	(Mar) 79	Nanalal Harishanker v. State of Gujarat	(Feb) 62
Dayaprakash Trikambhai v. Spe- cial Land Acquisition Officer, Baroda	(Feb) 34	Navinchandra Babulal Bhavsar v. Bachubhai Dhanabhai	(Apr) 124
Fulsinh Kesri Sinhji v. Vallabh- das Hargovandas	(July) 200	Od Zaverbhai Goberbhai v. State of Gujarat	(Nov) 340
Galal Ramshi v. Vrajilal Ichha- shanker	(May) 159	Patel Kalidas Devraj v. Patel Kuverji Asharam	(May) 149
Ganibhai Kusalbhai v. State of Gujarat	(Mar) 88	Pirubhai Ramjubhai v. Trikamlal Nanjibhai	(Oct) 285
Harisingh Harnamsingh Khalsa, Dr. v. E. F. Deboo	(Nov) 349	Ratia Mohan v. State of Gujarat	(Nov) 320
Harivallabh Chhotalal v. Ahme- dali Rajabhai	(May) 145	Sabuddin Sheikh v. J. S. Thakar	(Jan) 1 (FB)
Hiralal Hargovindas v. Popatlal Sankalchand	(Jan) 28	Sankalchand Varchhaji v. Khenga- ram Vardhaji	(Nov) 342
Indravadan Parshotamdas Desai v. Indravadan Ambalal Mehta	(Aug) 251	Sarda v. Patel Keshavlal Joitaram	(May) 150
Jafarabad Municipality v. Kathia- war Industries Limited	(Nov) 344	Sevantilal v. State of Gujarat	(Jan) 14
Jatashanker Fulchand Mehta v. Mavji Trikam	(June) 169	Shah Shivilal Bhogilal v. Shah Vadilal Dipchand	(May) 141
Jhalawar Electric Power Supply Co. Ltd. v. Municipality of Wadhwan City	(Feb) 40	State of Gujarat v. Batukbhai Har- govind Vora	(Mar) 66
Kacharji Hariji v. State of Gujarat	(Apr) 100	State of Gujarat v. Samaj	(Nov) 337
Kanji Mulji Kanani v. Mangla- ben Parmanand	(Nov) 308	State of Gujarat v. Pagi Bhurabhai Rumalbhai	(Sep) 260
Kasturbhai Ramchand Panchal & Brothers v. Firm of Mohanlal Nathubhai	(Apr) 110	State of Gujarat v. Vora Saifud- din Akbarali	(July) 195
Kikabhai Samsuddin v. Collector of Estate Duty, Gujarat, Ahmedabad	(Nov) 326	Surendrasinhaji Jorawarasinhji v. U. M. Bhatta	(Oct) 292
		Tarwadi Ravishanker Mohanlal v. Collector, Panchmahals	(June) 191
		Thakkar, S. M. Mrs. v. M. A. Baqui	(Mar) 74
		Thakordas Sugnamal v. State of Gujarat	(Feb) 47
		Tharada, M. B. v. State of Gujarat	(Dec) 362
		Union of India v. Lalji Bhimji, a partnership firm	(Feb) 55

United Industries v. Dalwadi & Co.

(Jan) 18

Yaduray Bansi v. Sunderbai
Zarin Rustomji Munshi v. Santu-
bhai Manibhai Patel

(Jan) 21

(Aug) 233

Vasava Narottam Unju v. Shah
Ambalal Maganlal

(Mar) 94

SUBJECT INDEX

Ahmedabad City Courts Act (19 of 1961), S. 14
— Case tried summarily by competent Magistrate — Sentence — Legality — See Criminal P. C. (1898), S. 262 (2) (Feb) 62B

Ahmedabad Small Cause Court Rules, R. 39
— Validity — Provision read with O. 37, R. 3, Civil P. C. does not violate Art. 19 (1) (f) of the Constitution — Provisions do not constitute an unreasonable restriction on right of a defendant to hold and dispose of property — Procedure contemplated by the provisions does not amount to violation of natural justice (Apr) 124A

— R. 39 — Summary procedure contemplated under the rule — Principles of natural justice not violated — See Constitution of India, Art. 226 (Apr) 124B

— R. 39 — Provision read with O. 37, R. 3, Civil P. C. does not violate Art. 14 of the Constitution (Apr) 124D

Arbitration Act (10 of 1940), S. 47, Proviso — Consent to award — It should be given at time when Court is called upon to consider whether award should be accepted as adjustment or compromise (Obiter) (Mar) 76B

Arms Act (54 of 1959), S. 14 (1) — Discretion in licensing authority to refuse or to suspend or revoke licence — Discretion is judicial and must be exercised in accordance with principles of natural justice — See Constitution of India, Art. 226 (Nov) 349A

— S. 17 (3) — Discretion in licensing authority to refuse or to suspend or revoke licence — Discretion is judicial and must be exercised in accordance with principles of natural justice — See Constitution of India, Art. 226 (Nov) 349A

— S. 18 — Discretion in licensing authority to refuse or to suspend or revoke licence — Discretion is judicial and must be exercised in accordance with principles of natural justice — See Constitution of India, Art. 226 (Nov) 349A

Bombay City Civil Courts Act (14 of 1869), S. 22A — Notification regarding transfer of territory after decree in suit — Appeal — Unless notification is made retrospective in operation, appeal would lie to the Court empowered to entertain it prior to the transfer — See Civil P. C. (1903), S. 96 (Mar) 94

Bombay General Clauses Act (1 of 1904), S. 15 — Bombay Police Act (22 of 1951), S. 56 — Power under S. 56 conferred on Sub-Divisional Magistrate by virtue of his office — It does not cease to be a special conferment of power — AIR 1943 Sind 107, Diss. from (Jan) 1A (FB)

— S. 15 — Expression "specially" in S. 56 of Bom. Act 22 of 1951 — Construction — See Bombay Police Act (22 of 1951), S. 56 (Jan) 1B (FB)

— S. 16 — Expression 'specially' in S. 56 of Bombay Act 22 of 1951 — Construction of — See Bombay Police Act (22 of 1951), S. 56 (Jan) 1B (FB)

— S. 18 — Expression 'specially' in S. 56 of Bombay Act 22 of 1951 — Construction of — See Bombay Police Act (22 of 1951), S. 56 (Jan) 1B (FB)

Bombay Land Revenue Code (5 of 1879), S. 37 (1) — Rivers, streams and all standing and flowing water belong to Government and unless permitted by Collector no one has proprietary rights over same — But such right of Government stands affected by reason of S. 7, Easements Act and is subject to easement right of riparian owners as contemplated by S. 7 (b) read with illus. (i) of S. 7 (Obiter) (Oct) 276H

Bombay Mamlatdars Courts Act (2 of 1906), S. 15 — Application under S. 83-D (1) (iv), Bombay Tenancy and Agricultural Lands Act, 1948 — Inquiry must be held in accordance with provisions of Mamlatdar's Courts Act — Summons can be issued under S. 15 — See Tenancy Laws — Bombay Tenancy and Agricultural Lands Act (1948), S. 83-D (Nov) 340

Bombay Police Act (22 of 1951), S. 37 (1) (b) — Expression "corrosive substance" is not equivalent to "inflammable or combustible substance" and the section does not authorise the prohibition of carrying of torches (Mar) 66

— S. 56 — Power under, conferred on Sub-Divisional Magistrate by virtue of his office — Does not cease to be a special conferment of power — See Bombay General Clauses Act (1 of 1904), S. 15 (Jan) 1A (FB)

— S. 56 — Expression "specially" as used in section — Construction — Special conferment of power and general conferment of

Bombay Police Act (contd.)

power — Distinction explained — In regard to Sub-Divisional Magistrate, power under S. 56 must be conferred upon that officer either by his name or by his office — Notification conferring general power held did not satisfy requirement of S. 56

(Jan) 1B (FB)

Bombay Police Manual, Vol. I (1959), R. 458 (2)—Dismissal of police constable—Personal hearing during appeal is not necessary—AIR 1963 Assam 183, Dissented—See Constitution of India, Art. 311 (2) (Sep) 260

—R. 459—Dismissal of Police constable—Personal hearing during appeal is not necessary—AIR 1963 Assam 183, Dissented — See Constitution of India, Art. 311 (2) (Sep) 260

Bombay Prevention of Gambling Act (4 of 1887), Ss. 6 (1), 7 Proviso—On death of person issuing general order or authority under S. 6 (1), general order or authority comes to end and search cannot be made thereunder—If search is made under such invalid authority or order there is no question of any defect being not a material one and proviso to S. 7 cannot be invoked for raising presumption under such unauthorised act (Feb) 47

—S. 7, Proviso — Death of person issuing general order or authority under S. 6 (1) — General order or authority comes to an end — Search conducted under invalid authority — Proviso to S. 7 cannot be invoked for raising presumption under unauthorised act — See Bombay Prevention of Gambling Act (4 of 1887), S. 6 (1) (Feb) 47

Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947)

See under Houses and Rents.

Bombay Tenancy and Agricultural Lands Act (67 of 1948)

See under Tenancy Laws.

Civil Procedure Code (5 of 1908), Pre.—Fundamental rule of construction—Natural justice — Statute must be read consistently with principles of natural justice (Nov) 349D

—Pre. — Interpretation of Statutes — Statutes conferring power — See Bombay Police Act (22 of 1951), S. 56

(Jan) 1B (FB)

—Pre. — Interpretation of Statutes — Internal aid — Aid of sub-section — Rule of construction (Jan) 1C (FB)

—Pre. — Interpretation of Statutes—Right of appeal — Right is creation of statute and unless statute puts a limitation upon subject matter of appeal or power of appellate court, scope and ambit of appeal before appellate Court is co-extensive with that of dispute which was heard by Judge against whose judgment appeal is preferred (Mar) 79C

—Pre. — Interpretation of Statutes — In-

Civil P. C. (contd.)

terpretation of Constitution — See Constitution of India, Preamble (Apr) 124C

—Pre.—Interpretation of Statutes—Words “and” and “or”—See Partnership Act (1932), S. 69 (2) (June) 178C

—Pre. — Interpretation of Statutes—Plain terms of statute — Modification, not permissible (June) 178D

—Pre.—Interpretation of Statutes—Statute conferring power—Question whether power under a provision has to be exercised on subjective satisfaction of Government or subject to some objective tests — Test to determine (Nov) 349B

—Pre. — Judicial precedents—Finality — Reconsideration of previous Full Bench decision (July) 195B

—Pre. — Maxims — Rule of audi alteram partem — Applicability (Nov) 349C

—S. 2 (2) (9)—Compromise purshis filed on 20.3.58—Court ordering decree to be drawn up on 28.3.1958—Decree actually drawn on Court-fee being paid on 26.4.61, bearing D/- 28.3.58—Execution application filed on 28.9.61 held time barred — See Limitation Act (1908), Art. 182 (1) and (7) (May) 152

—S. 2 (3)—Decree in the name of a joint Hindu family firm by its manager — Execution of — See Civil P. C. (1908), O. 21, R. 10 (Feb) 55A

—S. 2 (16) and (18) — Pauper suit when instituted — See Civil P. C. (1908), O. 33, R. 2 (Nov) 308A

—Ss. 13, 45—Ex parte, decree passed by Court at Agra against resident of Junagadh territory—Decree is nullity—Decree transferred to Junagadh Court in 1958 — Decree not executable. AIR 1951 Bom 125 (FB) and AIR 1951 Bom 190 Held impliedly overruled by AIR 1962 SC 1737 (Jan) 23

—S. 16—Wife's suit for arrears of, and future maintenance—Charge on properties outside jurisdiction of Court claimed — Amendment of application—See Civil P. C. (1908), O. 33, R. 2 (Nov) 308B

—S. 26 — Pauper suit — Presentation of plaint—When occurs—See Civil P. C. (1908), O. 33, R. 2 (Nov) 308A

—S. 33 — Compromise purshis filed on 20.3.1958 — Court ordering on 28.3.58 to draw up a decree in terms of compromise—Decree came into existence immediately when judgment was pronounced—See Limitation Act (1908), Art. 182 (1) and (7) (May) 152

—S. 36—Not intended to apply to temporary injunctions—See Civil P. C. (1908), O. 39, R. 1 (Jan) 28

—Ss. 37, 38 and 39 and 47—Decree passed by Court A—Territorial jurisdiction trans-

Civil P. C. (contd.)

ferred from Court *A* to Court *B*—Execution application in Court *B* is maintainable (May) 141

—*S. 38*—Execution of decree—Territorial jurisdiction—*See* Civil P. C. (1908), S. 37 (May) 141

—*S. 39*—Execution of decree—Territorial jurisdiction—*See* Civil P. C. (1908), S. 37 (May) 141

—*S. 45*—Judgment in personam pronounced in absentum by foreign Court against person not submitting to its jurisdiction—Is a nullity—*See* Civil P. C. (1908), S. 13 (Jan) 23

—*S. 47*—Execution of decree—Jurisdiction—*See* Civil P. C. (1908), S. 37 (May) 141

—*S. 73 and O. 21, R. 11 (2) (j)*—Money decree—Execution application seeking assistance of Court by rateable distribution is in accordance with law. AIR 1929 Nag 148, Dissented from (July) 200

—*S. 94*—Injunction under—Breach thereof is punishable under O. 39, R. 2 (3)—*See* Civil P. C. (1908), O. 39, R. 1 (Jan) 28

—*S. 96*—Right of appeal—Transfer of territory under Notification of State Government after decree in suit—In the absence of any provision making the notification retrospective, appeal preferred in a Court empowered to entertain appeal prior to such transfer is maintainable (Mar) 94

—*S. 100*—Letters Patent (Gujarat), Cl. 15—Appeal against decision of High Court (Single Judge) in second appeal—Judge hearing second appeal unable to go into question of facts—High Court hearing Letters Patent appeal held could go into a question of fact (Mar) 79B

—*Ss. 100-101*—Finding of fact—Findings of facts on proper appreciation—Basis for deciding law point in writ proceedings—*See* Constitution of India, Art. 226 (Aug) 251A

—*S. 115, O. 37, R. 3*—Order granting leave to defend subject to condition of depositing certain sum as security towards plaintiff's claim—Order cannot be interfered with in revision (Jan) 18C

—*S. 115*—Revisional jurisdiction of High Court in cases under the Rent Act—Nature of—*See* Houses and Rents—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 29 (2) (Apr) 110E

—*S. 115 and O. 13, R. 9*—Material irregularity in exercise of jurisdiction—Return of document by Court without following procedure under O. 13, R. 9 and without allowing it to be proved—There is material irregularity in exercise of jurisdiction (May) 149

—*S. 115, O. 11, Rr. 18, 20*—“Any case which has been decided”—Words “case de-

Civil P. C. (contd.)

cided” include order relating to some error of procedure—Controversy between parties in regard to right or obligation in relation to inspection of documents—Decision of Court thereon held would amount to “case decided” (July) 213A

—*S. 115, O. 11, Rr. 18, 20*—Exercise of jurisdiction illegally or with material irregularity—Court's power to order for inspection of documents under O. 11, Rr. 18, 20—Extent of—Court ignoring those provisions acts illegally or with material irregularity (July) 213B

—*S. 115*—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 11 (4)—Revisional jurisdiction of High Court, when can be attracted—Eviction suit—Express provision regarding procedure in striking out defence laid down in S. 11 (4)—Court's failure to observe procedure—Amounts to material irregularity within meaning of that expression as used in cl. (c) of S. 115—Revisional jurisdiction of High Court is attracted (Oct) 285B

—*S. 115 (c) and O. 6, R. 17*—Application for amendment of written statement—Rejection of application for delay in filing—Court acts illegally and with material irregularity—Case comes within S. 115 (c) (May) 159

—*S. 122*—There is no inconsistency between S. 122 and Art. 227 of the Constitution—Civil Revn. Appln. No. 1166 of 1963, D/- 23-8-1967 (Guj), Overruled—*See* Constitution of India, Art. 227, Proviso (Jan) 18A

—*S. 141*—Application for permission to sue as pauper—Amendment of—*See* Civil P. C. (1908), O. 33, R. 2 (Nov) 303A

—*Ss. 144 and 151*—Against whom restitution can be granted—Stay of execution on condition that judgment-debtor deposits decree amount—J. D's clerk, by mistake, paying the money to a wrong person instead of depositing into Court—Restitution, held, could not be granted—Court has no control over the alleged recipient of the money—Powers under S. 151 not exercised when there is definite provision under S. 144 (Feb) 55E

—*S. 151*—Restitution—Against whom can be granted—Powers under the section cannot be exercised in view of specific provision under S. 144—*See* Civil P. C. (1908), S. 144 (Feb) 55E

—*S. 151*—Scope—Express provision made by Legislature in respect of exercising power of striking out defence in eviction suit for arrears of rent—Inherent powers of Court would not be available (Oct) 285A

—*O. 1, R. 10*—Suit for dissolution of partnership—All partners are necessary parties (July) 205

Civil P. C. (contd.)

—O. 4, R. 1 — Pauper suit—Institution —
See Civil P. C. (1908), O. 33, R. 2

(Nov) 308A

—O. 6, R. 17—Application for amendment
of written statement rejected for delay in
filing — Court acts illegally and with mate-
rial irregularity—Case comes within S. 115
(c) — See Civil P. C. (1908), S. 115 (c)

(May) 159

—O. 6, R. 17—Application for permission
to sue as pauper — Court can allow amend-
ment of application or withdrawal of relief
before grant of permission — See Civil P. C.
(1908), O. 33, R. 2

(Nov) 308A

—O. 11, R. 18 — Controversy between
parties in regard to right and objection in
relation to inspection of documents — Order
on, is "case decided" within meaning of
S. 115—See Civil P. C. (1908), S. 115

(July) 213A

—O. 11, R. 18 — Court ignoring provisions
of Rr. 18 and 20 — Acts illegally or with
material irregularity—See Civil P. C. (1908),
S. 115

(July) 213B

—O. 11, R. 20—Inspection of document —
Controversy between parties as regards right
to — Decision thereon is case decided within
meaning of S. 115 — See Civil P. C. (1908),
S. 115

(July) 213A

—O. 11, R. 20 — Court ignoring provisions
of, acts illegally and with material irregu-
larity within meaning of S. 115 — See Civil
P. C. (1908), S. 115

(July) 213B

—O. 13, R. 9 — Return of document by
Court without following procedure under
R. 9 and without allowing it to be proved —
There is material irregularity in exercise of
jurisdiction—See Civil P. C. (1908), S. 115

(May) 149

—O. 20, Rr. 6, 7 — Decree — Passing of
decree follows as a matter of course as soon
as a judgment is pronounced — See Limita-
tion Act (1908), Art. 182 (1) and (7)

(May) 152

—O. 21, R. 10 and S. 2 (3)—Who may apply
for execution—Decree in the name of a joint
Hindu family firm by its manager — Firm
subsequently made a partnership firm with
same family members as partners—The two
firms are different entities and the latter can-
not execute the decree

(Feb) 55A

—O. 21, Rr. 11 to 17 — Execution petition
according to law under Art. 182 of Limita-
tion Act, 1908 — See Limitation Act (1908),
Sch. I, Art. 182, Cl. 5

(Feb) 55B

—O. 21, R. 11 — Scope — See Civil P. C.
(1908), O. 21, R. 12

(Feb) 55C

—O. 21, R. 11 (2) (j)—Money decree—Exe-
cution application seeking assistance of
Court by rateable distribution is in accord-

Civil P. C. (contd.)

ance with law. AIR 1929 Nag 148, Dissented
from. — See Civil P. C. (1908), S. 73

(July) 200

—O. 21, Rr. 12 and 11—Scope—Judgment-
debtor himself being in possession of move-
ables — Description not necessary — Inven-
tory, however, necessary if they are with the
agent of the judgment-debtor

(Feb) 55C

—O. 21, R. 32 — Not intended to apply to
temporary injunctions — See Civil P. C.
(1908), O. 39, R. 1

(Jan) 28

—O. 22, Rr. 3, 9 and 11 — Suit for dissolu-
tion of partnership—All partners are neces-
sary parties — Failure to bring representa-
tives of deceased parties on record in appeal
—Appeal abates as a whole

(July) 205

—O. 22, R. 9—Suit for dissolution of part-
nership — Failure to bring on record legal
representative of deceased partner — Appeal
abates as a whole — See Civil P. C. (1908),
O. 22, R. 3

(July) 205

—O. 22, R. 11—Partnership, dissolution of
—Suit for—Legal representative of deceased
partner not brought on record — Appeal
abates as a whole — See Civil P. C. (1908),
O. 22, R. 3

(July) 105

—O. 23, R. 1 — Application for permis-
sion to sue as pauper — Court can allow
amendment of application or withdrawal
of relief before grant of permission — See
Civil P. C. (1908), O. 33, R. 2

(Nov) 308A

—O. 23, R. 3 — Parties to suit accepting
arbitration award after issues were framed
in suit but before contention was raised —
Acceptance converts it into agreement or
adjustment between parties—Court has only
to see whether agreement or adjustment is
lawful or not and if it is lawful, Court is
bound to pass decree in terms of settlement
and to the extent it settles dispute between
parties — If agreement is disputed Court is
entitled to enter into enquiry and to pass a
decree on basis of its decision — Proviso to
S. 47 of Arbitration Act is not attracted in
such a case

(Mar) 76A

—O. 23, R. 3 — Compromise purshis filed
on 20-3-58 — On 28-3-58 Court ordering
drawing up of decree in terms of compro-
mise — Decree came into existence on 28-3-
58 as it was the date on which the judgment
was pronounced—See Limitation Act (1908),
Art. 182 (1) and (7)

(May) 152

—O. 30, Rr. 1 and 2 — Scope — Question
whether bar of S. 69 (2) of Partnership Act
is attracted or not — Suit by firm must be
treated as one by partners at time of accrual
of cause of action

(June) 178B

—O. 30, Rr. 1, 2, 4—Whether a suit is suit
by a firm or on behalf of a firm, two manda-
tory conditions laid down in S. 69 (2) of
Partnership Act are cumulative and not dis-

Civil P. C. (contd.)

junctive — See Partnership Act (1932), S. 69
 (2) (June) 178C
 —O. 30, R. 2 — Scope — See Civil P. C.
 (1908), O. 30, R. 1 (June) 178B
 —O. 33, R. 1 — Date of application to sue
 as pauper is date of institution of suit — See
 Civil P. C. (1908), O. 33, R. 2 (Nov) 308A
 —O. 33, Rr. 2, 1, 8, 15; O. 4, R. 1, O. 6, R. 17,
 O. 23, R. 1 and Ss. 141, 26, 2 (16) and (18) —
 Application for permission to sue as pauper —
 Court's power to allow amendment of
 application or withdrawal of relief before
 grant of permission (Nov) 308A
 —O. 33, Rr. 2, 1 and 8 and S. 16 — Wife's
 suit for arrears of and future maintenance
 — Charge on person and properties of hus-
 band also claimed—Application for permis-
 sion to sue as pauper filed by wife — Such
 properties outside jurisdiction of Court —
 Suit not beyond pecuniary jurisdiction of
 Court — Court having jurisdiction to grant
 relief against person of husband — Amend-
 ment of such application or withdrawal of
 relief as to charge on properties sought by
 her — Court has jurisdiction to allow such
 amendment or withdrawal (Nov) 308B
 —O. 33, Rr. 5 and 6 and O. 44, R. 1 — En-
 quiry into pauperism—Stage for (Apr) 122
 —O. 33, R. 6 — Enquiry into pauperism—
 Stage for—See Civil P. C. (1908), O. 33, R. 5
 (Apr) 122
 —O. 33, R. 8—Application for permission
 to sue as pauper—Date of application is date
 of suit—See Civil P. C. (1908), O. 33, R. 2
 (Nov) 308A
 —O. 33, R. 15 — Pauper suit — Rule 15
 intends institution of suit in manner other
 than by plaint—See Civil P. C. (1908), O. 33,
 R. 2 (Nov) 308A
 —O. 34, R. 1—Prior and puisne mortgagees
 — Right to rateable distribution. A I R 1937
 Pat 307 Held no longer good law in view of
 AIR 1938 Pat 179—See T. P. Act (1882), S. 73
 (July) 222A
 —O. 34, R. 12 — Prior and puisne mort-
 gagees — Right to rateable distribution.
 A I R 1937 Pat 307 Held no longer good law
 in view of A I R 1938 Pat 179 — See T. P. Act
 (1882), S. 73 (July) 222A
 —O. 34, Rr. 12 and 13 — Rule 13 has got
 relation to R. 12 (July) 222B
 —O. 34, R. 13 — Prior and puisne mort-
 gagees—Right to rateable distribution. A I R
 1937 Pat 307 Held no longer good law in view
 of AIR 1938 Pat 179 — See T. P. Act (1882),
 S. 73 (July) 222A
 —O. 34, R. 13—Rules 12 and 13 have to be
 read together — See Civil P. C. (1908), O. 34,
 R. 12 (July) 222B
 —O. 37, R. 3 — Order granting leave to
 defend subject to condition of depositing

Civil P. C. (contd.)

certain sum or security — No interference
 in revision with the order — See Civil P. C.
 (1908), S. 115 (Jan) 18C
 —O. 37, R. 3 — Provision in R. 39, Ahme-
 dabad Small Cause Court Rules read with
 O. 37, R. 3 do not violate Art. 19 (1) (f) of
 Constitution—See Ahmedabad Small Cause
 Court Rules, R. 39 (Apr) 124A
 —O. 37, R. 3 — Provisions do not violate
 Art. 14 of the Constitution—See Ahmedabad
 Small Cause Court Rules, R. 39 (Apr) 124D
 —O. 37, R. 3 (2) — Order granting condi-
 tional leave to defend suit filed under sum-
 mary procedure need not give reasons in
 support of order (Jan) 18B
 —O. 39, Rr. 1 and 2 (3), O. 21, R. 32, Ss. 36
 and 94 — Injunction under O. 39, R. 1 —
 Breach thereof is punishable under O. 39,
 R. 2 (3) — Order 21, R. 32 and S. 36 not
 meant for empowering Court to punish party.
 AIR 1945 Nag 134 and AIR 1941 All 140,
 Diss. from. (Jan) 28
 —O. 39, R. 2 (3) — Breach of temporary
 injunction — Punishable under R. 2 (3) —
 See Civil P. C. (1908), O. 39, R. 1 (Jan) 28
 —O. 41, R. 6 (2) — Scope—Provisions are
 mandatory — Court is bound to stay sale
 subject to terms (June) 166
 —O. 44, R. 1 — Enquiry into pauperism—
 Stage for — See Civil P. C. (1908), O. 33, R. 5
 (Apr) 122
Constitution of India, Preamble, Art. 19 — In-
 terpretation of Constitution to be based on
 words in the Constitution itself (Apr) 124C
 —Art. 5 — Domicile — Concept of, ex-
 plained—Person having domicile in British
 India prior to 15-8-1947—He would acquire
 domicile in India or Pakistan according as his
 permanent home fell on partition: (Mar) 79A
 —Art. 14 — Provisions of R. 39 of Ahme-
 dabad Small Cause Court Rules do not vio-
 late the Article — See Ahmedabad Small
 Cause Court Rules, R. 39 (Apr) 124D
 —Art. 19—Interpretation of the Constitu-
 tion to be based on words in the Constitu-
 tion itself — See Constitution of India,
 Preamble (Apr) 124C
 —Art. 19 (1) — Post-constitutional statute
 has mandate of Art. 19 (1)—See Constitution
 of India, Art. 226 (Nov) 349A
 —Art. 19 (1) (f) — Provision in R. 39 of
 Ahmedabad Small Cause Court Rules read
 with O. 37, R. 3, Civil P. C. does not
 violate Art. 19 (1) (f)—See Ahmedabad Small
 Cause Court Rules, R. 39 (Apr) 124A
 —Art. 226—Enquiry under S. 88D of B. T.
 A. L. Act is quasi-judicial — Opportunity to
 be heard has to be given to persons whose
 exemption is to be revoked — See Tenancy
 Laws—Bombay Tenancy and Agricultural
 Lands Act (1948), S. 88D (Mar) 88A

Constitution of India (contd.)

—*Art. 226* — Enquiry under S. 88C of Bombay Tenancy and Agricultural Lands Act is quasi-judicial—*See* Tenancy Laws — Bombay Tenancy and Agricultural Lands Act (1948), S. 88C (Mar) 88B

—*Arts. 226 and 227*—Quasi-judicial enquiry—Essentials (Mar) 88C

—*Art. 226*—Natural justice—*See* Ahmedabad Small Cause Court Rules, R. 39 (Apr) 124A

—*Art. 226*—Natural justice—Principles — Principles are not violated under the summary procedure contemplated under R. 39 of Ahmedabad Small Cause Court Rules (Apr) 124B

—*Art. 226* — Certiorari—Issues of law in petition—Determination—Findings of facts arrived at by proper appreciation of evidence are basis (Aug) 251A

—*Art. 226*—New plea — Certiorari—Election—Nomination of candidate for municipal seat rejected—Election questioned under S. 14 (1) of Gujarat Municipalities Act — Election set aside holding rejection to be improper — Writ petition filed against such order—Claim during arguments that rejected nomination if had been accepted would not have materially affected election — No petition making such claim filed by returned candidate — Such claim not made even in writ petition — Question of election being materially affected does not also arise in a case of improper rejection of nomination under S. 14 (5) (a) (iii) of Gujarat Municipalities Act — Hence such claim cannot be allowed to be raised (Aug) 251E

—*Arts. 226, 227, 329 (b)* — Representation of the People Act (1950), Ss. 24, 23—Refusal to include name of person in electoral roll by Chief Electoral Officer — Petition under Arts. 226, 227 to set it aside is maintainable —“Election” as contemplated under Art. 329 (b)—Meaning of, explained (Oct) 292A

—*Arts. 226, 227, 329 (a)* — Representation of the People Act (1950), S. 30 (a) — Adjudication under — Writ against can be issued under Arts. 226, 227 — S. 30 (a) is not protected by Art. 329 (a) (Oct) 292B

—*Art. 226* — Application for cancelling exemption granted under S. 88C of Bombay Tenancy and Agricultural Lands Act, 1948 — Inquiry — Principles of natural justice must be followed — *See* Tenancy Laws — Bombay Tenancy and Agricultural Lands Act (1948), S. 88D (Nov) 340

—*Arts. 226, 19 (1)*—Natural justice—Whether function delegated to administrative authority is purely administrative or quasi judicial — Test to determine — Post-Constitutional statute has mandate of Art. 19 (1)—Arms Act (1959), Ss. 14 (1), 17 (3), 18 —

Constitution of India (contd.)

Discretion in licensing authority to refuse or to suspend or revoke licence—Discretion is judicial and must be exercised in accordance with principles of natural justice — AIR 1969 Assam and Nagaland 50 (FB) and decisions of M. P. and Rajasthan High Courts relied on therein, Dissented from (Nov) 349A

—*Art. 226* — Interpretation of Statutes — Statute conferring power—Question whether power under a provision has to be exercised on subjective satisfaction of Government or subject to some objective tests — Test to determine—*See* Civil P. C. (1908), Pre. (Nov) 349B

—*Art. 226* — Interpretation of statutes — Rule of audi alteram partem — Applicability—*See* Civil P. C. (1908), Pre. (Nov) 349C

—*Arts. 227, Proviso, 372*—Civil P. C. (1908), S. 122 — There is no inconsistency between Proviso to Art. 227 and S. 122 — Art. 372 cannot be invoked for the purpose of coming to the conclusion that S. 122, Civil P. C. ceased to be in force on commencement of Constitution — Applicability of Art. 372 postulates that there is inconsistency between S. 122, Civil P. C. and proviso to Art. 227 of the Constitution — S. 122, Civil P. C. in its entirety continues in force after commencement of Constitution and no part of it is unconstitutional or ultra vires — Civil Revn. Appln. No. 1116 of 1963, D/- 23-8-1967 (Guj), Overruled (Jan) 18A

—*Art. 227* — Quasi judicial enquiry—Essentials — *See* Constitution of India, Art. 226 (Mar) 88C

—*Art. 227* — Remedy under Art. 227 is constitutional—Legislative enactment conflicting with constitutional remedies — Legislative enactments must give way—*See* Constitution of India, Art. 226 (Oct) 292A

—*Art. 227*—Adjudication under S. 30 (a) of Representation of the People Act (1950) — Writ maintainable — *See* Constitution of India, Art. 226 (Oct) 292B

—*Arts. 283 and 284* — Money deposited in Court — Whether Court can order their investment in some other way (Mar) 74

—*Art. 284*—Money deposited in Court — Investment of — Power of Court—*See* Constitution of India, Art. 283 (Mar) 74

—*Art. 286, Sch. VII, List II, Entry 52*—Octroi — Incidence — Word “use” in the context of octroi does not only mean ‘using up’ or consumption — Uncrushed salt brought to factory within municipal limits for crushing and brought to the factory for the use of factory — Octroi is leviable (Nov) 344

—*Art. 311 (2)* — Scope—Stages of departmental enquiry — When personal hearing is essential — Delinquent has no right to such

Constitution of India (contd.)

hearing during appeal — Police constable dismissed—Personal hearing refused during appeal—Dismissal not bad—(Bombay Police Manual, Vol. I (1959), Rr. 458 (2) and 459) — AIR 1963 Assam 183, **Dissented** (Sep) 260

—*Art. 326*—Electoral roll—Voter below age of 21 included—Effect—*See* Municipalities—Gujarat Municipalities Act (36 of 1963), S. 14 (5) (a) (iv) (Nov) 334

—*Art. 329 (a)*—S. 30 (a) of Representation of the People Act (1950), not protected by Art. 329 (a) — *See* Constitution of India, Art. 226 (Oct) 292B

—*Art. 329 (b)* — Election — What constitutes—*See* Constitution of India, Art. 226 (Oct) 292A

—*Art. 372* — Applicability — There is no inconsistency between Art. 227 and S. 122, Civil P. C. — Civil Revn. Appln. No. 1166 of 1963, D/- 23-8-1967 (Guj), **Overruled**—*See* Constitution of India, Art. 227, Proviso (Jan) 18A

—*Sch. VII, List. II, Entry 52* — Word 'use' in the context of octroi does not mean 'using up' or consumption — *See* Constitution of India, Art. 286 (Nov) 344

Contract Act (9 of 1872), S. 45 — Whether a suit is by a firm or on behalf of a firm, the mandatory conditions in S. 69 (2) are cumulative and not disjunctive — *See* Partnership Act (1932), S. 69 (2) (June) 178C

Criminal Procedure Code (5 of 1898), Ss. 4 (1) (b), 155 (2), 200, 202, 203, 204, 4 (1) (e)—Complaint about a non-cognizable offence against persons the complainant cannot trace — Magistrate is bound to cause an enquiry to be made by the Police before he can dismiss the complaint under S. 203 — Otherwise the complainant will be rendered helpless since in such cases the police cannot act without being authorised by a Magistrate (Jan) 14B

—*Ss. 20 and 202* — A City Magistrate can exercise jurisdiction in a case within the city — Allotment of areas in the city to different City Magistrates is merely for sake of administrative convenience—This does not bar making or having an inquiry or investigation made by a Police Officer under S. 202 of the Code (Jan) 14A

—*Ss. 55, 107, 108, 109*—Quantum of amount of security — Person arrested on account of his movement on railway station i.e. on suspicion under S. 55 — Previous convictions need not necessarily be taken into account while considering quantum of amount — Order of security for Rupees 1,000 and for period of one year modified and accused directed to furnish bond of Rs. 200 with one surety for like amount and for period of three months only (Sep) 267C

Criminal P. C. (contd.)

—*Ss. 107, 108, 109, 112, 113, 117, 243* — Substance of accusation explained to accused and he was asked to show cause why he should not be bound over under S. 109 read with S. 117—Accused had no cause to show why he should not be bound over and stated that he was prepared to execute surety bond — Held when procedure contemplated both under Ss. 112 and 113 as also in S. 243 had been followed as required in S. 117 (2), it could not be said that even then enquiry contemplated under S. 117 (1) should have taken place (Sep) 267A

—*Ss. 107, 108 and 109*—Nature of proceedings—Proceedings are in nature of preventing any offences being committed as also for enabling accused persons to improve and keep good behaviour (Sep) 267B

—*S. 107*—Quantum of amount of security —Previous convictions need not necessarily be taken into account — Order of security for Rs. 1,000 and for period of one year modified and accused directed to furnish bond of Rs. 200 with one surety for like amount and for period of three months only—*See* Criminal P. C. (1898), S. 55 (Sep) 267C

—*S. 108*—Substance of accusation explained to accused and he was asked to show cause why he should not be bound over — Accused stated that he was prepared to execute surety bond — Held when procedure contemplated both under Ss. 112 and 113 as also in S. 243 had been followed, enquiry contemplated under S. 117 (1) was not necessary—*See* Criminal P. C. (1898), S. 107 (Sep) 267A

—*S. 108* — Nature of proceedings — Proceedings are preventive in nature—Also enable accused persons to improve and keep good behaviour — *See* Criminal P. C. (1898), S. 107 (Sep) 267B

—*S. 108*—Quantum of amount of security —Person arrested on suspicion under S. 55 —Previous convictions need not necessarily be taken into account while considering quantum of amount — Order of security for Rs. 1,000 and for period of one year modified and accused directed to furnish bond of Rs. 200 with one surety for like amount and for period of three months only—*See* Criminal P. C. (1898), S. 55 (Sep) 267C

—*S. 109*—Accused asked to show cause why he should not be bound over under S. 109 read with S. 117—Accused stated that he was prepared to execute surety bond — Held when procedure contemplated both under Ss. 112 and 113 as also in S. 243 had been followed, enquiry contemplated under S. 117 (1) was not necessary — *See* Criminal P. C. (1898), S. 107 (Sep) 267A

Criminal P. C. (contd.)

—S. 109 — Nature of proceedings — Proceedings are preventive in nature — Also for enabling accused persons to improve and keep good behaviour — See Criminal P. C. (1898), S. 107 (Sep) 267B

—S. 109—Quantum of amount of security — Previous convictions held not necessarily be taken into account while considering quantum of amount — Order of security for Rs. 1,000 and for period of one year modified and accused directed to furnish bond of Rs. 200 with one surety for like amount and for period of three months only—See Criminal P. C. (1898), S. 55 (Sep) 267C

—S. 112 — Accused asked to show cause why he should not be bound over—Accused stated that he was prepared to execute surety bond — Held when procedure contemplated both under Ss. 112 and 113 as also in S. 243 had been followed, enquiry contemplated under S. 117 (1) was not necessary—See Criminal P. C. (1898), S. 107 (Sep) 267A

—S. 113—Substance of accusation explained to accused and he was asked to show cause why he should not be bound over — Accused stated that he was prepared to execute surety bond—Held, when procedure contemplated both under Ss. 112 and 113 as also in S. 243 had been followed, enquiry contemplated under S. 117 (1) was not necessary —See Criminal P. C. (1898), S. 107 (Sep) 267A

—S. 117—Substance of accusation explained to accused and he was asked to show cause why he should not be bound over — Accused stated that he was prepared to execute surety bond—Held, when procedure contemplated both under Ss. 112 and 113 as also in S. 243 had been followed, enquiry contemplated under S. 117 (1) was not necessary—See Criminal P. C. (1898), S. 107 (Sep) 267A

—S. 155 (2)—Complaint about a non-cognisable offence against persons the complaint cannot trace — Magistrate bound to cause an enquiry to be made by the Police before he can dismiss complaint under S. 203—See Criminal P. C. (1898), S. 4 (1) (h) (Jan) 14B

—S. 173—Filing of charge-sheet and arresting accused can be said to be part of investigation — See Prevention of Corruption Act (1947), S. 5A (Dec) 362E

—S. 173 — Investigation illegal—Jurisdiction of Court to try case is not affected—See Prevention of Corruption Act (1947), S. 5A (Dec) 362G

—Ss. 195 (1) (c), 476, 479A — Penal Code (1860), Ss. 471, 467 — Suit based on forged cheque—Criminal Court taking cognisance of offence under S. 471 — Sanction of the

Criminal P. C. (contd.)

Civil Court not necessary under S. 195 (1) (c) (July) 195A

—S. 200 — Complaint of non-cognizable offence against persons not traceable — Magistrate bound to cause an inquiry before dismissing complaint under S. 23 — See Criminal P. C. (1898), S. 4 (1) (h) (Jan) 14B

—S. 202 — Inquiry or investigation by a police officer — Power of City Magistrate to order—See Criminal P. C. (1898), S. 20 (Jan) 14A

—S. 202—Complaint about non-cognizable offence against persons not traceable — Magistrate bound to cause an inquiry to be made before dismissing it under S. 203—See Criminal P. C. (1898), S. 4 (1) (h) (Jan) 14B

—S. 203 — Complaint about non-cognizable offence against persons not traceable — Magistrate bound to cause enquiry to be made by police before dismissing the complaint—See Criminal P. C. (1898), S. 4 (1) (h) (Jan) 14B

—S. 204—Complaint about a non-cognisable offence against persons not traceable — Magistrate bound to cause an inquiry by police before dismissing the complaint under S. 203—See Criminal P. C. (1898), S. 4 (1) (h) (Jan) 14B

—S. 242 — Case under Ss. 323 and 342, I. P. C. — On date fixed for service of summons to accused, complainant accused absent—Accused acquitted — Propriety — See Criminal P. C. (1898), S. 247 (June) 176

—S. 243 — Case under Ss. 323 and 342, I. P. C. — On date fixed for service of summons to accused, complainant and accused absent — Magistrate passing order whereby accused came to be acquitted — Order held resulted in miscarriage of justice — See Criminal P. C. (1898), S. 247 (June) 176

—S. 243 — Substance of accusation explained to accused and he was asked to show cause why he should not be bound over—Accused stated that he was prepared to execute surety bond — Held when procedure contemplated both under Ss. 112 and 113 as also in S. 243 had been followed, enquiry contemplated under S. 117 (1) was not necessary—See Criminal P. C. (1898), S. 107 (Sep) 267A

—S. 243 — Accused not pleading guilty—Magistrate bound to proceed with recording of evidence — See Criminal P. C. (1898), S. 244 (Oct) 290A

—S. 243 — Accused not pleading guilty—Court not recording any evidence — Court cannot record plea of accused under S. 342 —See Criminal P. C. (1898), S. 342 (Oct) 290B

—S. 244—Scope—See Criminal P. C. (1898), S. 247 (June) 176

Criminal P. C. (contd.)

—Ss. 244, 243 and 342 — Gujarat Municipalities Act, 1963 (34 of 1964), S. 155 — Offence under S. 155 — Summons case — Accused pleading not guilty — Magistrate is bound to proceed with recording evidence of complainant and his witnesses — In absence of any prosecution evidence, it is not open to Magistrate to put any question to accused under S. 342 and thereafter to convict him on basis of such statement

(Oct) 290A

—S. 244 — Accused not pleading guilty — Court must record prosecution evidence — See Criminal P. C. (1898), S. 342 (Oct) 290B
—Ss. 247, 242, 243, 244, 417 — Scope — Complaint under Ss. 323 and 342, I. P. C. — On date fixed for service of summons to accused, complainant and accused absent — Magistrate passing order whereby accused came to be acquitted — Order held resulted in miscarriage of justice

(June) 176

—Ss. 260, 537 — Complaint in respect of offences under Ss. 323, 504 and 506, I. P. C. — Court following summary procedure and after recording substance of evidence framed charge in respect of offences under Ss. 332, 323 and 504, I. P. C. — Same procedure continued thereafter — Held Court committed error in law in continuing same summary procedure after having framed a charge under S. 332, I. P. C. and it would not be irregularly curable under S. 537, Criminal P. C.

(Nov) 324

—S. 261 — Case tried summarily by competent Magistrate — Sentence — Legality — See Criminal P. C. (1898), S. 262 (2) (Feb) 62B
—Ss. 262 (2), 362, 263, 264 and 261 — Ahmedabad City Courts Act (19 of 1961), S. 14 — Charge for offences under Ss. 279 and 337 I. P. C. — Case tried summarily by City Magistrate who was competent to try so and accused convicted for offences — Sentence of 4 months R. I. and to pay fine of Rs. 500 and in default to pay fine to undergo further R. I. of three months, for offence under S. 279, held, illegal as contravening S. 262

(Feb) 62B

—S. 263 — Case tried summarily by City Magistrate who was competent to try so — Sentence passed — Legality — See Criminal P. C. (1898), S. 262 (2) (Feb) 62B

—S. 264 — Case tried summarily by competent Magistrate — Sentence — Legality — See Criminal P. C. (1898), S. 262 (2) (Feb) 62B
—Ss. 261 537 — Recording of judgment before passing sentence is essential — Non-compliance would amount to illegality and not merely irregularity

(Nov) 320

—S. 342 — Accused cannot be questioned if prosecution offers no evidence — See Criminal P. C. (1898), S. 244

(Oct) 290A

Criminal P. C. (contd.)

—Ss. 342, 243 and 244 — Summons case — Accused pleading not guilty — No evidence offered in support of prosecution — Magistrate recording further plea of accused under S. 342 — Held, the Magistrate has acted illegally and has departed from mandatory procedure prescribed in Chapter 20 — Departure from procedure is so gross that a prejudice to accused must be inferred

(Oct) 290B

—S. 345 — Magistrate issuing order on basis of case-papers submitted to him and framing charge accordingly — Prosecution cannot request Court to revise charge at stage of application filed by parties under S. 345 (2) — See Criminal P. C. (1898), S. 439

(Nov) 337A

—S. 362 — Case tried summarily — Sentence passed — Legality — See Criminal P. C. (1898), S. 262 (2)

(Feb) 62B

—S. 367 — Circumstantial evidence — Conviction on — See Evidence Act (1872), S. 3

(April) 100A

—S. 417 — Scope — See Criminal P. C. (1898), S. 247

(June) 176

—S. 417 (3) — Acquittal in complaint case — Failure to invoke provisions of S. 417 (3) — Revision at instance of complainant cannot be entertained — See Criminal P. C. (1898), S. 439 (5)

(Nov) 342A

—S. 439 — Gujarat Municipalities Act, 1963 (34 of 1964), S. 155 — Offence under, for constructing shed — Magistrate imposing fine of Rs. 20 — Conviction found illegal — Taking into consideration the factors that accused has undergone trouble and expenses in preferring revision in Sessions Court and at hearing of reference in High Court, retrial not ordered

(Oct) 290C

—Ss. 439, 345 — Magistrate issuing order on basis of case-papers submitted to him and framing charge accordingly — Held, if order was any way wrong and not borne out from papers produced before Court, prosecution should have gone in revision before High Court against said order, at any rate, after charge was framed against accused and prosecution could not request Court to revise charge at stage when application was given by parties under S. 345 (2)

(Nov) 337A

—Ss. 439 (5), 417 (3) — Acquittal in case instituted on complaint — Failure of complainant to invoke provisions of S. 417 (3) — Revision at instance of complainant cannot be entertained

(Nov) 342A

—S. 476 — Suit based on forged cheque — Criminal Court taking cognizance under S. 471, Penal Code — Sanction of civil Court is not necessary — See Criminal P. C. (1898), S. 195 (1) (c)

(July) 195A

Criminal P. C. (contd.)

—S. 479-A—Suit on forged cheque—Criminal Court taking cognizance under S. 471, Penal Code—Sanction of civil Court is not necessary—See Criminal P. C. (1898), S. 195 (1) (c) (July) 195A

—S. 537—Recording of judgment before passing sentence essential—Non-compliance would amount to illegality—See Criminal Procedure Code (5 of 1898), S. 264 (Nov) 320

—S. 537—Complaint in respect of offences under Ss. 323, 504 and 506—Summary procedure followed—Charge-sheet under Ss. 332, 323 and 504—Continuation of summary procedure is illegal—See Criminal P. C. (1898), S. 260 (Nov) 324

—S. 561A—Power under section is wide and can be exercised in suitable cases where grave injustice has resulted—Power can, however, be invoked, and exercised by Court where there exists no provision under which party affected can get same remedy from Court (Nov) 342B

Deed—Construction—Rules of construction of documents—Admissibility of oral evidence—See Evidence Act (1872), S. 92 (June) 169

Easements Act (5 of 1882), S. 7 (b) and illus. (j)—Riparian rights—Ownership of all water with Government—However such right is subject to easements—See Bombay Land Revenue Code, S. 37 (1) (Oct) 276H

Electricity Act (9 of 1910), S. 3—No provision in contract for supply of energy for revision of rates—Agreement is in conflict with Sch. VI, Cl. 1 of Electricity Supply Act—Company can revise rates unilaterally: AIR 1955 Bom 182, held overruled in AIR 1964 SC 1593—See Electricity (Supply) Act (1948) S. 57 (Feb) 40

Electricity (Supply) Act (54 of 1958), S. 57 and Sch. VI, Cl. 1—Electricity Act (1910), S. 3—Agreement for supply of energy—No provisions for revision of rates during period of contract—Agreement is in conflict with Sch. VI, Cl. 1—Company can revise rates unilaterally. AIR 1955 Bom 182, held overruled by AIR 1964 S C 1593 (Feb) 40

—Sch. VI, Cl. 1—Agreement for supply of energy—No provision for revision of rates during the period of contract—Agreement is in conflict with Sch. VII, Cl. 1: AIR 1955 Bom 182, held overruled by AIR 1964 S C 1593—See Electricity (Supply) Act (1948), S. 57 (Feb) 40

Estate Duty Act (34 of 1953), S. 2 (19)—“By way of succession” does not mean either testate or intestate succession—Covers succession of intestate and hence gift deed is included in settlement (Nov) 326B

Estate Duty Act (contd.)

—S. 10—Exclusion of benefit to donor—Relief from liability to maintain dependants—Amounts to benefit (Nov) 326C

—S. 10—To the extent of the retention of benefit, gift of several properties coupled with obligation amounting to benefit—Property burdened not specified—Entire property deemed to pass (Nov) 326D

—S. 12 (i), *Explanation*—Maintenance of himself and any of his relatives—“And” does not mean “or”—Reservation of interest for maintenance of relatives alone does not fall within section (Nov) 326A

Evidence Act (1 of 1872), Ss. 3, 18—Statement of accused—It is not open to Court to dissect statement and pick up part which is incriminating and reject part which is exculpatory (Mar) 69A

—S. 3—Circumstantial evidence—Conviction on (April) 100A

—S. 4—List of Voters—Proof of age of voter—Conclusiveness—See Municipalities—Gujarat Municipalities Act (34 of 1964), S. 14 (5) (a) (iv) (Nov) 334

—Ss. 8, 27—Evidence of conduct—Admissibility—Accused giving information to Police head constable in presence of panchas that he would show the stolen goods—He further taking them to cow-dung hill and from there taking out stolen articles—This done on very next day after commission of offence—This evidence being evidence of conduct of the accused was admissible under S. 8—It was also admissible under S. 27 (April) 100B

—S. 8—Mere pointing out place where articles are hidden—Not sufficient for raising presumption under S. 114, Illus. (a)—See Evidence Act (1872), S. 114, Illustration (a) (April) 100D

—S. 18—Statement of accused—Court cannot dissect it and pick up part which is incriminating and reject part which is exculpatory—See Evidence Act (1872), S. 3 (Mar) 69A

—S. 18—Suggestions put in cross-examination (Mar) 69B

—S. 21—Proof of content of document—Person with knowledge must be examined—Land acquisition—Higher rate claimed—Onus of proof on claimant—See Land Acquisition Act (1894), S. 18 (Sep) 270B

—S. 27—Evidence of conduct—Admissibility—See Evidence Act (1872), S. 8 (Apr) 100B

—S. 45—Opinion of expert—Expert should put before Court all the materials which induce him to come to the conclusion, so that Court, although not an expert may form its own judgment on those materials (Feb) 48C

Evidence Act (contd.)

—S. 67—Proof of contents of document—Person with knowledge must be examined—Land acquisition—Higher rate claimed—Onus of proof on claimant—*See* Land Acquisition Act (1894), S. 18 (Sep) 270B

—S. 91—Deed—Construction—Bar of S. 92 when applicable—*See* Evidence Act (1872), S. 92 (June) 169

—Ss. 92, 91—Bar of S. 92 when applicable—Rules of construction of documents—Possessory mortgage and rent note of same date—Question whether formed one transaction—Oral evidence admissible—S. 92, no bar—Held further that lease was enforceable. AIR 1958 Bom 8 Dissented (June) 169

—S. 101—Proof of contents of document—Person with knowledge must be examined—Land acquisition—Higher rate claimed—Onus of proof on claimant—*See* Land Acquisition Act (1894), S. 18 (Sep) 270B

—Ss. 101 to 104—Eviction of tenant—Burden of proof as to greater hardship—It is on tenant once landlord satisfies requirements of S. 13 (1) (g) of the Rent Act—*See* Houses and Rents—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 13 (1) (g) (Apr) 110D

—S. 106—Proof of contents of document—Person with knowledge must be examined—Land acquisition—Higher rate claimed—Onus of proof on claimant—*See* Land Acquisition Act (1894), S. 18 (Sep) 270B

—S. 114, Ill. (a)—Proof of possession of stolen goods and not of possession of place where those goods were hidden and found is necessary (Apr) 100C

—Ss. 114, Ill. (a) and 8—Presumption under S. 114 (a) when arises—Mere pointing out place where articles are hidden—Not sufficient (Apr) 100D

—S. 115—Objection to admission of additional evidence not raised before lower appellate Court—Estoppel against raising the same in revision—*See* Houses and Rents—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 29 (2) (Apr) 110F

—S. 115—Estoppel—Candidate to election admitting disqualification during scrutiny of nomination papers—Voter questioning election not estopped by admission—*See* Municipalities—Gujarat Municipalities Act (34 of 1964), S. 14 (1) (Aug) 251B

Gujarat Municipalities Act 1963 (34 of 1964)
See under Municipalities.

Hindu Marriage Act (25 of 1955), Ss. 5 (ii), 10 (1) (c), 11, 12, 13 (1) (iii)—Scope (Feb) 48

—S. 10 (1) (c)—Scope—*See* Hindu Marriage Act (1955), S. 5 (ii) (Feb) 48A

Hindu Marriage Act (contd.)

—S. 11—Scope—*See* Hindu Marriage Act (1955), S. 5 (ii) (Feb) 48A

—S. 12—Scope—*See* Hindu Marriage Act (1955), S. 5 (ii) (Feb) 48A

—S. 13—'Incurably unsound mind'—What is (Feb) 48B

—S. 13 (1) (iii)—Scope—*See* Hindu Marriage Act (1955), S. 5 (ii) (Feb) 48A

—S. 23 (1) (b)—Relief on ground of cruelty—Cruelty must not have been condoned by petitioner before filing petition—Last acts of cruelty not established—Petitioner cannot fall back on previous instances of similar character (Jan) 21A

—S. 23 (1) (b)—Cruelty—Proof—Testimony of party—Corroboration whether and how far necessary (Jan) 21B

HOUSES AND RENTS

—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 11 (4)—Striking out defence—Inherent powers cannot be invoked when express provision is made—*See* Civil P. C. (1908), S. 151 (Oct) 285A

—S. 11 (4)—Court's failure to strike out defence—Material irregularity—Attracts revisional jurisdiction of High Court—*See* Civil P. C. (1908), S. 115 (Oct) 285B

—S. 11 (4)—Suit for eviction of tenant on ground of arrears of rent—Order of deposit of rent—No further order that on failure to deposit, defendant shall not be entitled to defend—Failure to deposit full amount—Order striking out defence, held, in violation of express provision of S. 11 (4) (Oct) 285C

—S. 13 (1) (g)—Word 'required'—Meaning of—It could not be equated with mere demand or claim—But absolute or compelling necessity need not be shown (Apr) 110A

—Ss. 13 (1) (g) and 13 (2)—Requirement of landlord—Even when part of premises is required honestly and reasonably, test of section is satisfied (Apr) 110B

—Ss. 13 (1) (g) and 13 (2)—Burden of proof as to greater hardship—It is on tenant once landlord satisfies requirements of S. 13 (1) (g) (Apr) 110D

—S. 13 (2)—Question of greater hardship—Considerations that weigh in striking just balance between landlord and tenant—Procedure in passing a partial decree (Apr) 110A

—S. 13 (2)—Power in revision of High Court in cases under the section—Nature of—*See* Houses and Rents—Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 29 (2) (Apr) 110E

Houses and Rents—Bombay Rents Hotel and Lodging House Rates Control Act (contd.)

—Ss. 29(2) and 13(2)—Nature of powers in revision of High Court with reference to cases under S. 13(2) (Apr) 110E

—S. 29(2)—Evidence Act (1872), S. 115—

Objection to admission of additional evidence not raised before lower appellate Court by defendants — Held, after having taken a chance of decision in their favour, it would not be open to defendants to raise any such point in revision (Apr) 110F

Land Acquisition Act (1 of 1894), Ss. 9(1), 15, 16, 18, 23(1)—Reference under S. 18 — Claimant in pursuance of notice issued under S. 9 filing claim statement on 20.8.1959 — Plantain plants planted on land under acquisition after 20.8.1959 — Award given on 10.11.1959 and possession taken on 5.12.1959 — Plantain plants standing on land at the time — Held, under S. 23 Court was bound to take into consideration damages sustained by claimant by reason of taking standing crops on land under acquisition at time of Collector's taking possession — Claimant could agitate this question in Court in reference under S. 18 (Feb) 34A

—S. 15—Reference under S. 18—Question that can be agitated in — See Land Acquisition Act (1 of 1894), S. 9(1) (Feb) 34A

—Ss. 15, 23, 24—Scope — S. 23 deals with matters to be considered by Court in determining compensation — Court is obliged to take them into consideration—Collector has in view of S. 15 only to take guidance from Ss. 23 and 24 in determining compensation—(1955) 57 Bom L R 934, Dissent from (Feb) 34B

—S. 16—Reference under S. 18—Question that can be agitated in — See Land Acquisition Act (1 of 1894), S. 9(1) (Feb) 34A

—S. 16—Scope (Feb) 34C

—S. 18—Reference under—Compensation for plantain plants planted after service of notice under S. 9 — Claimant could agitate this question in Court in reference under S. 18—See Land Acquisition Act (1 of 1894), S. 9(1) (Feb) 34A

—S. 18—Reference to Court against award of Land Acquisition Officer—Nature of proceedings — Court does not sit in appeal but has to decide matter judicially afresh—Propriety of passing remarks by Court against Land Acquisition Officer (Oct) 276A

—Ss. 18, 23 — Land acquisition proceedings — Claimants are in position of plaintiffs—Claim for compensation at higher rate than that awarded — Onus of proof lies on claimant—Proof of contents of documents—

Land Acquisition Act (contd.)

Persons having knowledge must be examined — Admission of Land Acquisition Officer about sales held not material — Evidence Act (1872), Ss. 67, 106, 101, 21 (Sep) 270B

—S. 23—Collector has in view of S. 15 only to take guidance from Ss. 23 and 24 in determining the compensation — See Land Acquisition Act (1 of 1894), S. 15 (Feb) 34B

—S. 23—Compensation in respect of trees standing on land but submerged in water at time of notification under S. 4 — Mere fact that trees were in water is no ground to refuse compensation when their existence cannot be denied (June) 191B

—Ss. 23, 24—Market value—General principles of assessment (Sep) 270A

—S. 23—Position of claimant as that of plaintiff—See Land Acquisition Act (1894), S. 18 (Sep) 270B

—Ss. 23, 24—Land likely to be used for building purposes—Potential value—Considerations of (Sep) 270C

—S. 23—Market value of land under acquisition—Best method of determination of — Instances of sale of same or similar lands in locality must also be near in point of time to notification under S. 4—Proof of such instances by material evidence (Oct) 276B

—S. 23—Agricultural lands — Determination of market value — Comparable sales of similar lands — Distance from village how far relevant (Oct) 276C

—S. 23 — Market value — Determination of—Comparable sales—Time factor between date of acquisition and such sales—Matters to be considered in determining whether such sales are wholesome or stale (Oct) 276D

—S. 23—Acquisition of lands for agricultural purposes — Determination of market value — Though size of plot may serve as one of elements to be considered in determining market value especially of land for building purposes or residential purposes, instances of sales relating to small agricultural plots held could be taken as comparable instances for determining value of compact land consisting of various survey numbers (Oct) 276E

—Ss. 23, 24 — Determination of market value on basis of comparable instances of sale — Must be taken as covering existing advantages and potential value (Oct) 276F

—S. 23 — Agricultural land abutting on river — Fact that land has certain facilities or special adaptability for making beneficial use of land by its situation may well be taken into account while assessing market value—(Obiter) (Oct) 276G

Land Acquisition Act (contd.)

—S. 23 (1) — Compensation for plantain plants planted after issue of notice under S. 9 — Consideration of, in reference under S. 18—*See* Land Acquisition Act (1 of 1894), S. 9 (1), (Feb) 34A

—S. 23 (1) — Criterion for compensation is the damage and not the market value—Actual loss to owner by depriving him of harvest, is the basis, and not price of unripe crops (Feb) 34D

—S. 23 (1) and (2) — Claim for compensation for trees standing on land at time of notification under S. 4 — Claim falls under Clause firstly of S. 23 (1) — Amount by way of solatium under S. 23 (2) must also be awarded on claim for compensation awarded in respect of trees : A I R. 1964 Madh Pra 196, Dissent. (June) 191C

—S. 24 — Collector has in view of S. 15 only to take guidance from Ss. 23 and 24 in determining compensation—*See* Land Acquisition Act (1 of 1894), S. 15 (Feb) 34B

—S. 24 — Market value — Principles of assessment explained—*See* Land Acquisition Act (1 of 1894), S. 23 (Sep) 270A

—S. 24 — Potential value of land — Considerations of—*See* Land Acquisition Act (1 of 1894), S. 23 (Sep) 270C

—S. 24 — Market value, determination of — Comparable sales with existing advantages and potentials, need to be considered — *See* Land Acquisition Act (1 of 1894), S. 23 (Oct) 276F

—S. 25 (2)—Bar contemplated under S. 25 (2) cannot be invoked unless it is shown that notice under S. 9 was served on claimant (June) 191A

Letters Patent (Guj), Cl. 15—Appeal against decision of High Court (Single Judge) in second appeal—Judge hearing second appeal unable to go into question of facts — High Court hearing Letters Patent appeal held could go into a question of fact—*See* Civil P. C. (1908), S. 100 (Mar) 79B

Limitation Act (9 of 1908), Art. 182 (1) and (7) — Civil P. C. (1908), Ss. 2 (2), 2 (9), 33 and O. 20, Rr. 6, 7 and O. 23, R. 3 — Compromise on 20.3.1953—Defendant agreeing to pay amount within three months of compromise — Court ordering on 23.2.1953 to draw up a decree in terms of compromise on payment of court-fee by each party—No court-fee paid — By an order of Court decree prepared and signed on 26.4.1961 bearing date 23.3.1953 — Execution application filed on 23.9.1961 held barred by time — Decree came into existence on 25.3.1953 as it was the date on which judgment was pronounced and the date 20.3.1953 on decree was the correct date (May) 152

Limitation Act (1908) (contd.)

—*Sch. 1, Art. 182, Cl. 5* — "Application made in accordance with law"—Expression relates to the application as filed and not the order passed thereon — It must be in accordance with law as contemplated by the article (Feb) 55B

—*Sch. 1, Art. 182 (5)* — Step-in-aid of execution of decree—Application praying issue of notice on the judgment-debtor (Railway) under S. 82 and O. 21, R. 22, Civil P. C.—Issuance of notice accordingly — Application, held, a step-in-aid towards execution of decree—Neither non-appearance of the judgment-debtor nor non-compliance with R. 12 of O. 21 of Civil P. C., held, affected the position (Feb) 55D

Motor Vehicles Act (4 of 1939), Ss. 110-A (3) and 110-F — Accident taking place prior to constitution of claims tribunal — Suit for compensation not filed before constitution of claims tribunal — Claims tribunal has exclusive jurisdiction to entertain and decide application for compensation filed before it (Aug) 233A

—S. 110-D — Refusal by tribunal to hold an inquiry into claim or to adjudicate on ground that it has no jurisdiction — Such refusal is not an award (Aug) 233B

—S. 110-F — Claim for compensation—Cause arising before constitution of tribunal — Suit not filed before constitution of tribunal—After constitution, tribunal has exclusive jurisdiction to entertain claims for compensation — *See* Motor Vehicles Act (1939), S. 110-A (3) (Aug) 233A

MUNICIPALITIES

—**Gujarat Municipalities Act 1963 (34 of 1964), S. 6 (5)** — Elections — Scrutiny of nomination papers — Candidate admitting disqualification under S. 11 (2) (c)—Voter questioning election not estopped by such admission—*See* Municipalities—Gujarat Municipalities Act (34 of 1964), S. 14 (1): (Aug) 251B

—S. 9—Voter included in list under section — This right to vote cannot be questioned—*See* Municipalities—Gujarat Municipalities Act 1963 (34 of 1964), S. 14 (5) (a) (iv) (Nov) 334

—S. 9 (2)—Elections — Scrutiny of nomination papers — Candidate admitting disqualification under S. 11 (2) (c)—Voter questioning election not estopped by such admission—*See* Municipalities—Gujarat Municipalities Act (34 of 1964), S. 14 (1) (Aug) 251B

—S. 10 (3)—List of voters — It is conclusive evidence of right to vote — *See* Municipalities — Gujarat Municipalities Act (34 of 1964), S. 14 (5) (a) (iv) (Nov) 334

Municipalities — Gujarat Municipalities Act
(*contd.*)

—S. 11 (2) (c)—Candidate admitting disqualification — Voter challenging election is not estopped by admission — *See* Municipalities — Gujarat Municipalities Act (34 of 1964), S. 14 (1) (Aug) 251B

—S. 11 (2) (c)—Disqualification for election—Admission by candidate—Voter questioning election is entitled to lead all evidence on question of disqualification — *See* Municipalities—Gujarat Municipalities Act 1963 (34 of 1964), S. 14 (5) (a) (iii) (Aug) 251C

—S. 11 (2) (c)—Disqualification under, admitted—Nomination rejected — Rejection held improper — Error does not fall under S. 14 (7) — *See* Municipalities — Gujarat Municipalities Act, 1963 (34 of 1964), S. 14 (7) (Aug) 251D

—S. 14 (1), 11 (2) (c), 6 (5), 9 (2) and 277 (1), *Rules under, R. 10 (1)*—Right under S. 14 (1)—Principle of estoppel inapplicable—Candidate admitting disqualification under S. 11 (2) (c) during scrutiny of nominations—Voter, not a person present at scrutiny under R. 10 (1) of Rules questioning election under S. 14 (1)—Voter not estopped by such admission (Aug) 251B

—S. 14 (1), (5) (a) (iii)—Improper rejection nomination paper—Question if election is materially affected does not arise — *See* Constitution of India, Art. 226 (Aug) 251E

—Ss. 14 (5) (a) (iii) (ii) (1) and 11 (2) (c)—Scope—Candidate admitting disqualification under S. 11 (2) (c) during scrutiny of nominations—Nomination rejected—Voter questioning election under S. 14 (1) — Voter leading evidence on question of such disqualification—Rejection of nomination held by tribunal to be improper — Election set aside—Voter entitled to lead all evidence—S. 14 (5) (a) (iii) applies—Tribunal's decision correct (Aug) 251C

—Ss. 14 (5) (a) (iv), 10 (3), 9 — Question whether voter included in list under S. 9 is entitled to vote — Cannot be enquired into by Election Tribunal — Voters' list is conclusive. A I R 1967 Mad 244 & AIR 1962 Ker 190 (FB) & AIR 1955 Andhra 109, Diss. (Nov) 334

—Ss. 14 (7) (1) and 11 (2) (c) — Object of S. 14 (7) — Candidate admitting disqualification under S. 11 (2) (c) during scrutiny of nominations — Nomination rejected — Election questioned under S. 14 (1)—Rejection held improper — Election set aside — S. 14 (7) does not apply (Aug) 251D

—S. 155—Offence triable as summons case — *See* Criminal P. C. (1898), S. 244 (Oct) 290A

Municipalities — Gujarat Municipalities Act
(*contd.*)

—S. 155—Offence triable as summons case — Accused not pleading guilty — Court not following procedure in Chap. 20, Criminal P. C. — Accused held was prejudiced — *See* Criminal P. C. (1898), S. 342 (Oct) 290B

—S. 155 — Trial of offences illegal—Accused undergoing troubles and expenses in defence—Retrial not ordered—*See* Criminal P. C. (1898), S. 439 (Oct) 290C

—S. 277 (1) — Elections — Scrutiny of nomination paper — Candidate admitting disqualification under S. 11 (2) (c) — Voter questioning election not estopped by admission—*See* Municipalities — Gujarat Municipalities Act (34 of 1964), S. 14 (1) (Aug) 251B

—*Rules under, R. 10 (1)*—Voter is a "person not present at the scrutiny" under R. 10 (1)—*See* Municipalities—Gujarat Municipalities Act (34 of 1964), S. 14 (1) (Aug) 251B

Partnership Act (9 of 1932), S. 4 — Scope — "A firm" has no legal entity — Words and Phrases—"Firm" (June) 178A

—S. 4 — Suit by firm must be treated as one by partners at time of accrual of cause of action—*See* Civil P. C. (1908), O. 30, R. 1 (June) 178B

—S. 4—A suit filed by a firm — Is really a suit by all partners — *See* Partnership Act (1932), S. 69 (2) (June) 178C

—S. 48—One partner suing another partner for mortgage money — General account not asked for nor third partner made a party — Suit maintainable (May) 145

—S. 63—Scope and applicability—Conditions precedent—*See* Partnership Act (1932), S. 69 (2) (June) 178C

—S. 69 (2)—Bar under the section—Whether attracted—*See* Civil P. C. (1908), O. 30 R. 1 (June) 178B

—Ss. 69 (2), 63, 4—Scope and applicability — Conditions precedent—Whether suit is by firm or on behalf of firm the two mandatory conditions are cumulative as joined by "and" and not by "or" — AIR 1952 All 695 and AIR 1944 Oudh 37 and AIR 1962 Pat 25, Dissented from. A I R 1956 Punj 24, Partly dissented from (June) 178C

Penal Code (45 of 1860), S. 65 — Case tried summarily by competent Magistrate—Sentence passed—Legality — *See* Criminal P. C. (1898), S. 262 (2) (Feb) 62B

—S. 71 — Governs assessment of punishment — Does not indicate that separate punishment cannot be awarded and if it is awarded it is illegal—*See* Penal Code (1860), S. 279 (Feb) 62A

Penal Code (contd.)

—Ss. 279 and 337 and 71 — Offences under Ss. 279 and 337 are distinct — Separate conviction for offences can be recorded at same time — Commission of offence in same transaction — Section 71 governs assessment of punishment. AIR 1939 Pat 388, Diss. from.

(Feb) 62A

—S. 320 (8) — Ingredients got to be established by prosecution

(Nov) 337B

—S. 337 — Offences under Ss. 279 and 337 are different — See Penal Code (1860), S. 279

(Feb) 62A

—S. 379 — Pointing out place where articles are hidden — Person cannot be presumed to be a thief or receiver of stolen property — See Evidence Act (1872), S. 114, Illustration (a)

(Apr) 100D

—S. 411 — Mere pointing out place where articles are hidden — Person cannot be presumed to be a thief or a receiver of stolen property — See Evidence Act (1872), S. 114, Illustration (a)

(Apr) 100D

—S. 467 — Suit on forged cheque — Criminal Court taking cognizance under S. 471, Penal Code — Sanction of civil Court is not necessary — See Criminal P. C. (1898), S. 195 (1) (c)

(July) 195A

—S. 471 — Suit on forged cheque — Criminal Court taking cognizance under S. 471 — Sanction of civil Court is not necessary — See Criminal P. C. (1898), S. 195 (1) (c)

(July) 195A

Prevention of Corruption Act (2 of 1947), S. 5A — Power of Magistrate to grant sanction to investigate to officer below rank designated in S. 5A — Power is not dependent on availability or non-availability of officers designated in S. 5A

(Dec) 362A

—S. 5A — By establishment of special branch to investigate cases relating to bribery, powers of local District Superintendent of Police are not taken away

(Dec) 362C

—S. 5A — Magistrate on being satisfied about existence of prima facie case granting sanction after taking into consideration advisability to permit Police Sub-Inspector, member of special and independent unit, to investigate on basis of administrative convenience — Held, it could not be said that Magistrate had not applied his mind or had taken into consideration extraneous factors while granting permission

(Dec) 362D

—S. 5A — Filing of charge-sheet and arresting accused can be said to be part of investigation

(Dec) 362E

—S. 5A — General sanction to investigate is not contemplated by section — Permission to investigate crime granted to A — Held, permission could not enure to benefit of B —

Prevention of Corruption Act (contd.)

Provisions of S. 5A being mandatory, B had to obtain permission to investigate crime

(Dec) 362F

—S. 5A — Illegal investigation does not affect jurisdiction of Court to try case

(Dec) 362G

Provincial Small Cause Courts Act (9 of 1887), S. 16 — Section 35 is an express provision contemplated by S. 16 — See Provincial Small Cause Courts Act (1887), S. 35

(May) 147B

—Ss. 24 and 27 — Decree or order to be final and non-appealable must be made by Small Cause Court

(May) 147A

—S. 24 — Suit first tried by Small Cause Court and subsequently by Court of ordinary civil jurisdiction — Neither S. 24 nor S. 27 would apply — See Provincial Small Cause Courts Act (1887), S. 35

(May) 147B

—S. 27 — Decree or order made by a Court of Small Causes alone is final under the section — See Provincial Small Cause Courts Act (1887), S. 24

(May) 147A

—S. 27 — Suit first tried by Court of Small Causes and subsequently by Court of ordinary original jurisdiction — Neither S. 24 nor S. 27 would apply — See Provincial Small Cause Courts Act (1887), S. 35

(May) 147B

—Ss. 35, 16, 24 and 27 — Section 35 is an express provision contemplated by S. 16 — Suit first tried by Small Cause Court and subsequently by Court of ordinary civil jurisdiction — Order passed by latter Court — Neither S. 24 nor S. 27 would apply

(May) 147B

Registration of Electors Rules (1960), R. 13 (1) — Strict compliance with second part of Form 6 necessary — See Registration of Electors Rules (1960), R. 23 (1)

(Oct) 292D

—Rr. 19 to 22 — Scheme of Rules discussed and difference between objectors under R. 26 (3) shown — See Representation of the People Act (1950), S. 24

(Oct) 292C

—Rr. 23 (1), 26, 13 (1) and Form 6 — Application for inclusion of name in electoral roll — Supply of Form 6 as prescribed before amendment dated 12-10-1964 to applicant — Correct entries made by him in first part of old Form 6 — Amounts to compliance with R. 26 — Countersignature in second part by elector, not belonging to same part of electoral roll in which inclusion is sought — Application is not rendered defective thereby — Strict compliance with second part of Form 6 is necessary under R. 13 (1) only — (Obiter)

(Oct) 292D

—R. 24 — Objector under R. 26 (3) — Remedy of appeal under R. 24 is open — See Representation of the People Act (1950), S. 24

(Oct) 292C

Registration of Electors Rules (contd.)

— *R. 26*—Supply of old Form No. 6 — Entries correctly filled — Amounts to sufficient compliance with *R. 26* — See *Registration of Electors Rules (1960)*, *R. 23 (1)* (Oct) 292D

— *R. 26 (3)* — Objector under — Remedy when indicated — See *Representation of the People Act (1950)*, *S. 24* (Oct) 292C

— *Form 6* — First part correctly filled — Enough compliance with *R. 26*—Second part must be correctly filled under *R. 73 (1)* — See *Registration of Electors Rules (1960)*, *R. 23 (1)* (Oct) 292D

Rateable Distribution

See *Civil P. C. (1908)*, *S. 73*

Representation of the People Act (43 of 1950),

S. 13-B—Electoral roll — Conclusiveness — See *Municipalities—Gujarat Municipalities Act (36 of 1963)*, *S. 14 (5) (a) and (iv)* (Nov) 334

— *S. 20 (7)*—Issue whether person is ordinarily resident within meaning of *S. 20 (7)* — Decision based on only one of many proved facts — Decision is vitiated by error of law — (*Obiter*) (Oct) 292E

— *S. 22* — Person party to proceedings under — Alone can exercise right of appeal under *S. 24* — See *Representation of the People Act (1950)*, *S. 24* (Oct) 292C

— *S. 23*—Refusal to include name by Chief Electoral Officer—Challenge by writ petition can be made — See *Constitution of India*, *Art. 226* (Oct) 292A

— *S. 23*—Only person party to proceeding can exercise right of appeal under *S. 24* — See *Representation of the People Act (1950)*, *S. 24* (Oct) 292C

— *S. 23* — Electoral roll—Conclusiveness — See *Municipalities — Gujarat Municipalities Act (36 of 1963)*, *S. 14 (5) (a) (iv)* (Nov) 334

— *S. 23 (1)* — Who can be an objector and how objection is to be taken, explained—See *Registration of Electors Rules (1960)*, *R. 23 (1)* (Oct) 292D

— *S. 24* — Refusal to include name in electoral roll — Writ petition maintainable — See *Constitution of India*, *Art. 226* (Oct) 292A

— *Ss. 21, 23, 22 and 81* — Registration of Electors Rules (1960), Rules 26 (3), 19 to 22 and 24 — Order under *S. 23* granting inclusion of name in electoral roll — Appeal against under *S. 24* by objector is not maintainable — Objector under *R. 26 (3)* is not party to proceeding under *S. 26 (3)* (Oct) 292C

— *S. 30 (a)*—Not protected by *Art. 329 (a)* of the *Constitution* — See *Constitution of India*, *Art. 226* (Oct) 292B

— *S. 81* — Section does not contemplate exercise of right of appeal by any person in

Representation of the People Act (contd.) — general — See *Representation of the People Act (1950)*, *S. 24* (Oct) 292C

Saurashtra Octroi and Terminal Tax Rules, R. 2 — Uncrushed salt brought to factory within municipal limits for crushing and brought to factory for use of factory—Octroi is leviable — See *Constitution of India*, *Art. 286* (Nov) 344

Saurashtra Terminal Tax and Octroi Ordinance (1949), S. 2 (2)—'Octroi', meaning of — See *Constitution of India*, *Art. 286* (Nov) 344

— *S. 4*—Rules under — Saurashtra Octroi and Terminal Tax Rules — See *Constitution of India*, *Art. 286* (Nov) 344

Succession Act (39 of 1925), S. 214 — Production of succession certificate — Trial Court specifying time limit for production of succession certificate—Section only requires production of certificate at any time before decree is passed — Trial Court's order was erroneous (May) 150A

— *S. 214* — Original pro-note executed in favour of deceased husband of plaintiff — Original pro-note substituted by a new one in favour of plaintiff — Consideration of substituted pro-note was initial amount loaned by deceased husband — Succession certificate held not necessary — Fact that consideration of substituted pro-note was initial amount of the original pro-note had no relevance (May) 150B

TENANCY LAWS

— **Bombay Tenancy and Agricultural Lands Act (67 of 1948), S. 72** — Application under *S. 88-D* for cancelling exemption granted under *S. 88-C* — By virtue of *S. 72*, inquiry must be held in accordance with provisions of *Mamlatdars' Courts Act* — See *Tenancy Laws — Bombay Tenancy and Agricultural Lands Act (1948)*, *S. 88-D* (Nov) 340

— *S. 88-C* — Enquiry under the section is quasi-judicial (March) 88B

— *S. 88-C* — Application under *S. 88-D* for cancelling exemption granted under *S. 88-C* — Nature of inquiry — Power to issue summons — See *Tenancy Laws — Bombay Tenancy and Agricultural Lands Act (67 of 1948)*, *S. 88-D* (Nov) 340

— *S. 88-D* — Enquiry under the section is quasi-judicial — Person whose exemption is to be revoked has to be given an opportunity (March) 88A

— *Ss. 88-D, 88-C and 72*—Application under *S. 88-D* for cancelling exemption granted under *S. 88-C* — Nature of inquiry—Power to issue summons — Inquiry is a judicial inquiry on objective facts and is not an administrative inquiry based on subjective

Tenancy Laws — Bombay Tenancy and Agricultural Lands Act (contd.)

satisfaction of State Government—By virtue of S. 72, inquiry must be held in accordance with provisions of Mamlatdars' Courts Act — Even though data may be collected by subordinate officers, the State Government must allow parties a full opportunity to lead their evidence by helping them by issue of process as provided under that Act — Principles of natural justice must be followed in such an inquiry (Nov) 340

Trade and Merchandise Marks Act (43 of 1958), S. 78 — Complaint for offence under against persons not traceable — Magistrate bound to cause an inquiry to be made before dismissing the complaint under S. 203, Criminal P. C. — See Criminal P. C. (1898), S. 4 (1) (h) (Jan) 14A

—S. 79—Complaint for an offence under, against persons unknown — Duty of Magistrate—See Criminal P. C. (1898), S. 4 (1) (h) (Jan) 14B

Transfer of Property Act (4 of 1882), S. 8 — Deed—Construction—Rules for—Bar under S. 92, Evidence Act, when applicable — See Evidence Act (1872), S. 92 (June) 169

—S. 8 — Interpretation of deed — Document must be read as whole (Dec) 362B

—S. 54 — Mortgage by conditional sale, what amounts to—See T. P. Act (1882), S. 58 (Aug) 239

T. P. Act (contd.)

—S. 58—Deed—Construction — Possessory mortgage and rent note of same date — Question whether formed one transaction — Oral evidence admissible — S. 92, Evidence Act, no bar—See Evidence Act (1872), S. 92 (June) 169

—Ss. 58, 54 — Mortgage by conditional sale or sale with condition of repurchase — Document in question described as 'a conditional sale deed' — Possession of property transferred for adequate consideration — Property to be returned to executant on repayment of consideration within five years — If repayment not made within stipulated period executee to become owner and executant and his heirs will have no right whatsoever — Document held was mortgage by conditional sale (Aug) 239

—S. 73—Suit by prior mortgagee—Puisne mortgagee not a party to suit intervening at the stage of sale — Property sold subject to puisne mortgage—Puisne mortgagee cannot claim payment out of surplus sale proceeds : A I R 1937 Pat 307, Held no longer good law in view of AIR 1938 Pat 179 (July) 222A

—S. 105 — Possessory mortgage and rent note of same date — Whether formed one transaction—Oral evidence admissible—See Evidence Act (1872), S. 92 (June) 169

Words and Phrases — "Firm"—See Partnership Act (1932), S. 4 (June) 178A

—Words "use" and "Consumption", meaning of — See Constitution of India, Art. 286 (Nov) 344

GUJARAT SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss.=Dissented from in; Not F.=Not followed in; Over.=Overruled in;
Revers.=Reversed in.

Civil Procedure Code (5 of 1908)

- S. 122 — Civil Revn. Appln. No. 1166 of 1963, D/- 23-8-1967 (Guj) — Over. AIR 1969 Guj 18A (Jan).

Constitution of India

- Art. 12 — Spl. Civil Appln. No. 837 of 1960, D/- 24-1-1968 (Guj) — Revers. AIR 1969 S C 634B (Aug).
- Art. 31 (2) & (5) (b) (ii) — Spl. Civil Appln. No. 837 of 1960, D/- 24-1-1968 (Guj) — Revers. A I R 1969 S C 634B (Aug).
- Art. 31 (5) (a)—I L R (1966) Guj 1113—Revers. AIR 1969 S C 168B, C (Feb).
- Art. 31A (1) (a)—ILR (1966) Guj 1113 — Revers. AIR 1969 S C 168B (Feb).
- Art. 31A (1) (b)—ILR (1966) Guj 1113—Revers. AIR 1969 S C 168C (Feb).
- Art. 227, Proviso — Civil Revn. Appln. No. 1116 of 1963, D/- 23-8-1967 (Guj)—Over. AIR 1969 Guj 18A (Jan).
- Art. 372 — Civil Revn. Appln. No. 1116 of 1963, D/-23-8-1967 (Guj)—Over. AIR 1969 Guj 18A (Jan).

Criminal Procedure Code (5 of 1898)

- S. 162—AIR 1963 Guj 145—Diss. A I R 1969 Andh Pra 271B (Aug).
- S. 226—(1964) 2 Cri L J 87 (Guj)—Diss. AIR 1969 Mad 320 (Aug).
- S. 227—(1964) 2 Cri L J 87 (Guj)—Diss. AIR 1969 Mad 320 (Aug).

DEBT LAWS

—Saurashtra Agricultural Debtors Relief Act (23 of 1954)

- S. 2 (5), (6) (i) — Cri R. Appln. No. 477 of 1960, D/- 12-2-1963 (Guj). — Revers.—AIR 1969 S C 69A (Jan).
- S. 7 — C. R. Appln. No. 477 of 1960, D/- 12-2-1963 (Guj)—Revers. AIR 1969 S C 69A (Jan).

Electricity Act (9 of 1910)

- S. 7 (1), (2), (4) (prior to its amendment in 1959) — Spl. Civil Appln. No. 94 of 1962, D/- 31-10-1963 (Guj)—Revers. AIR 1969 S C 239A (Mar).

Electricity (Supply) Act (54 of 1948)

- S. 2 (8) — S. A. Nos. 33 and 34 of 1954, D/- 4-7-1964 (Guj)—Revers. AIR 1969 S C 770 (Sep).
- S. 19 (1) (b) (ii) — S. A. Nos. 33 & 34 of 1964, D/- 4-7-1964 (Guj) — Revers. AIR 1969 S C 770 (Sep).

Income-tax Act (11 of 1922)

- S. 10 (2) — (1966) 1 I T J 602 (Guj) — Revers. AIR 1969 S C 812A (Sep).

Income-tax Act (43 of 1961)

- S. 271 (1)—(1968) 69 I T R 312 (Guj) — Diss. AIR 1969 Madh Pra 220B (Oct).
- S. 297 (2) (a)—(1968) 69 I T R 312 (Guj)—Diss. AIR 1969 Madh Pra 220B (Oct).

Industrial Disputes Act (14 of 1947)

- S. 10 (1) (c) — (1965) 1 Lab L J 54 — Partly Diss. A I R 1969 Bom 274C (Aug).
- Sch. 2, Entry 3—(1965) 1 Lab L J 54 — Partly Diss. — A I R 1969 Bom 274C (Aug).

Industrial Employment (Standing Orders) Act (20 of 1946)

- S. 13A — (1965) 1 Lab L J 54 (Guj)—Diss.—AIR 1969 Bom 274C (Aug).

Penal Code (45 of 1860)

- S. 161—AIR 1963 Guj 145 — Diss. AIR 1969 Andh Pra 271B (Aug).

Prevention of Food Adulteration Act (37 of 1954)

- S. 5—AIR 1964 Guj 191—Diss. AIR 1969 Ker 179 (June).
- S. 7—AIR 1964 Guj 191—Diss. AIR 1969 Ker 179 (June).
- S. 16 (1) (a) (i) — A I R 1964 Guj 191 — Diss. AIR 1969 Ker 179 (June).

Representation of the People Act (43 of 1951)

- S. 86 (5) (as amended by Act 47 of 1966)—Ele, Petn. No. 22 of 1967, D/- 23-4-1968 (Guj)—Revers. AIR 1969 S C 734C (Aug).

Representation of the People Act (contd.)

- S. 116A (as amended by Act 47 of 1966)
Ele. Petn. No. 22 of 1967, D/- 23-4-1968 (Guj) — **Revers.** AIR 1969 S C 734C (Aug).

SHOPS AND ESTABLISHMENTS**—Bombay Shops and Establishments Act (79 of 1948)**

- S. 2 (4)—(1967) 8 Guj L R 395—**Revers.** AIR 1969 S C 63 (Jan).
—S. 52 (e)—(1967) 8 Guj L R 395—**Revers.** AIR 1969 S C 63 (Jan).

TENANCY LAWS**—Bombay Tenancy and Agricultural Lands Act (67 of 1948)**

- S. 70 — Appln. No. 1009 of 1960, D/- 5-2-1963 (Guj)—**Revers.** AIR 1969 S C 439B (June).
—S. 85 — App. No. 1009 of 1960, D/- 5-2-1963 (Guj)—**Revers.** AIR 1969 S C 439B (June).
—S. 85A — App. No. 1009 of 1960 D/- 5-2-1963 (Guj)—**Revers.** AIR 1969 S C 439D (June).

**GUJARAT CASES OVERRULED, REVERSED AND DISSENTED FROM ETC.
IN A. I. R. 1969**

DISS. = Dissented from in; **NOT F.** = Not followed in; **OVER.** = Overruled in;
REVERS. = Reversed in.

- (1963) AIR 1963 Guj 145=1963 (2) Cri L J 14, Valibhai Omarji v. State — **DISS.** AIR 1969 Andh Pra 271D (Aug).
Civil Revn. Appln. No. 477 of 1960, D/- 12-2-1963 (Guj) — **REVERS.** AIR 1969 SC 69 A,B (Jan).
App. No. 1009 of 1960, D/- 5-2-1963 (Guj)—**REVERS.** AIR 1969 SC 439B,D (June).
Spl. Civil Appln. No. 94 of 1962, D/- 31-10-1963 (Guj) — **REVERS.** AIR 1969 SC 239A (Mar).
(1964) AIR 1964 Guj 191=1964(2) Cri L J 290, State of Gujarat v. Asandas Kimmatrai **DISS.** AIR 1969 Ker 179 (June).
(1964) 2 Cri L J 87 = 1964.5 Guj L R 606, Kantilal Keshavlal v. Prabodh Chandra —**DISS.** AIR 1969 Mad 320 (Aug).
S. A. Nos. 33 and 34 of 1964, D/- 4-7-1964 (Guj) — **REVERS.** AIR 1969 SC 770 (Sep).
AIR 1964 Guj 265=(1965) 1 Lab L J 54, Tata Chemicals v. Kailash—**DISS.** AIR 1969 Bom 274C (Aug).
(1966) ILR (1966) Guj 1113—**REVERS.** AIR 1969 SC 168B,C (Feb).
(1966) 1 I T J 602 (Guj), Commr. of I. T. v. M/s. B. M. Kharwar — **REVERS.** AIR 1969 SC 812A (Sep).
(1967) 8 Guj L R 395=(1966) 2 Lab L J 389, State v. Devendra Prasad — **REVERS.** AIR 1969 SC 63 (Jan).
Civil Revn. Appln. No. 1116 of 1963, D/- 23-8-1967 (Guj), Kutbuddin Sarfudin Munshi v. Nandlal Chunilal Shah — **OVER.** AIR 1969 Guj 18A (Jan).
(1968) 69 ITR 312 = 9 Guj L R 59, Commr. of I. T. v. Hiralal Mohanlal Shah — **DISS.** AIR 1969 Madh Pra 220B (Oct).
Ele. Petn. No. 22 of 1967, D/- 23-4-1968 (Guj) —**REVERS.** AIR 1969 SC 734C (Aug).
Spl. Civil Appln. No. 837 of 1960, D/- 24-1-1968 (Guj) — **REVERS.** AIR 1969 SC 634B (Aug).

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years

Owing to late receipt of other Journals the following *supplement* to Comparative Tables of A. I. R. = Other Journals is issued.

A. I. R. Gujarat = Other Journals

AIR 1968 Gujarat

AIR	Other Journals
193	ILR (1968) Guj 50
202	(1969) 2 Lab L J 67
	ILR (1968) Guj 289
301	10 Guj L R 81

A. I. R. 1969 Gujarat = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1FB [C N 1]		74 [C N 15]		169 [C N 32]		285 [C N 48]	
9 Guj L R 142		9 Guj L R 138		10 Guj L R 600		10 Guj L R 747	
1969 Cri L J 50		76 [C N 16]		176 [C N 33]		1967 Ren C R 1050	
ILR (1968) Guj 4		10 Guj L R 210		1969 Cri L J 729		290 [C N 49]	
14 [C N 2]		79 [C N 17] ...		10 Guj L R 582		1969 Cri L J 1248	
9 Guj L R 925		88 [C N 18]		ILR (1968) Guj 282		10 Guj L R 868	
1969 Cri L J 63		10 Guj L R 274		178 [C N 34]		292 [C N 50] ...	
18 [C N 3]		94 [C N 19]		10 Guj L R 457		308 [C N 51]	
9 Guj L R 873		ILR (1969) Guj 352		191 [C N 35]		10 Guj L R 1011	
21 [C N 4]		100 [C N 20]		10 Guj L R 558		320 [C N 52]	
10 Guj L R 45		1969 Cri L J 471		195 [C N 36]		1969 Cri L J 1401	
ILR (1968) Guj 233		110 [C N 21]		1969 Cri L J 902		10 Guj L R 985	
23 [C N 5]		9 Guj L R 729		10 Guj L R 646		324 [C N 53]	
10 Guj L R 93		122 [C N 22] ...		200 [C N 37]		1969 Cri L J 1405	
28 [C N 6] ...		124 [C N 23]		10 Guj L R 148		10 Guj L R 998	
34 [C N 7]		9 Guj L R 409		205 [C N 38] ...		328 [C N 54]	
10 Guj L R 234		ILR (1968) Guj 191		213 [C N 39]		(1969) 1 I T J 67	
40 [C N 8]		141 [C N 24] ...		10 Guj L R 734		73 I T R 241	
10 Guj L R 225		145 [C N 25]		222 [C N 40]		334 [C N 55]	
47 [C N 9]		10 Guj L R 481		10 Guj L R 754		10 Guj L R 925	
1969 Cri L J 199		ILR (1968) Guj 159		233 [C N 41]		337 [C N 56]	
10 Guj L R 355		147 [C N 26]		10 Guj L R 710		1969 Cri L J 1498	
48 [C N 10]		10 Guj L R 490		239 [C N 42]		10 Guj L R 1000	
10 Guj L R 253		149 [C N 27]		10 Guj L R 811		340 [C N 57]	
55 [C N 11] ...		10 Guj L R 535		251 [C N 43]		10 Guj L R 492	
62 [C N 12]		150 [C N 28]		10 Guj L R 697		342 [C N 58]	
1969 Cri L J 389		ILR (1967) Guj 1086		260 [C N 44]		ILR (1968) Guj 288	
ILR (1968) Guj 338		9 Guj L R 1040		1969 Lab I C 1103		1969 Cri L J 1501	
66 [C N 13]		152 [C N 29]		267 [C N 45]		10 Guj L R 947	
9 Guj L R 309		10 Guj L R 57		1969 Cri L J 1133		344 [C N 59] ...	
1969 Cri L J 406		159 [C N 30]		10 Guj L R 847		349 [C N 60]	
69 [C N 14]		10 Guj L R 561		270 [C N 46]		10 Guj L R 769	
1969 Cri L J 409		166 [C N 31]		10 Guj L R 870		352 [C N 61]	
10 Guj L R 245		10 Guj L R 496		276 [C N 47]		1969 Cri L J 1503	
ILR (1968) Guj 173				10 Guj L R 931		10 Guj L R 1027	

Other Journals = All India Reporter

ILR (1967) Gujarat				ILR (1968) Guj				10 Guj L R				10 Guj L R				10 Guj L R			
ILR	AIR			ILR	AIR			Guj LR	AIR			Guj LR	AIR			Guj LR	AIR		
1086	1969	Guj	150	338	1969	Guj	62	61	1968	Guj	301	421	1969	SC	439	754	1969	Guj	222
1190	1970	"	128	352	"	"	94	93	1969	"	23	457	"	Guj	178	811	"	"	239
—				—				100	"	SC	69	481	"	"	145	829	"	SC	1190
—				(1968) 9 Guj L R				117	"	SC	168	490	"	"	147	847	"	Guj	267
—				Guj L R AIR				148	"	Guj	200	492	"	"	340	851	"	SC	1302
ILR (1968)				138 1969 Guj 74				156	"	SC	63	498	"	"	168	866	"	Guj	290
Gujarat				309 " " 66				175	"	"	37	535	"	"	149	870	"	"	270
ILR				409 1969 Guj 124				188	1968	"	1488	556	"	Guj	191	879	"	SC	634
AIR				729 " " 110				210	1969	Guj	76	561	"	"	159	919	"	"	1198
4 1969 Guj 1				1040 " " 150				225	"	"	40	571	"	"	182	925	"	Guj	334
50 1968 " 193				—				234	"	"	34	582	"	"	176	931	"	"	276
159 1969 Guj 145				10 Guj L R				245	"	"	69	600	"	"	189	947	"	"	342
173 " " 69				Guj L R AIR				253	"	"	48	622	1970	Guj	1	982	"	SC	1294
191 " " 124				45 1969 Guj 21				274	"	"	88	646	1969	"	195	985	"	Guj	320
233 " " 21				48 1968 SC 1481				349	"	SC	239	661	1970	Guj	43	992	"	SC	1297
239 1968 " 202				—				355	"	Guj	47	697	1969	"	251	1000	"	"	324
282 1969 " 176				—				358	1969	SC	270	710	"	"	233	1004	"	SC	776
288 " " 342				—				366	"	"	267	734	"	Guj	213	1011	"	Guj	308
				—				406	"	"	373	747	"	"	285	1027	"	"	362
				—								769	"	"	349	1036	"	SC	1225

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JAMMU AND KASHMIR HIGH COURT

1969

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PUISNE JUDGES

The Hon'ble Mr. Justice Janki Nath Bhat, M.A., B.A. (HONS), LL.B. (Gold Medalist).

" " Jaswant Singh, B.A., LL.B.

" " Mian Jalal-Uddin, M.A., LL.B. (Addl.)

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The Hon'ble Mr. Justice Anant Singh, M.A., B.L.

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NOMINAL TABLE

Abdul Rashid Shalla v. Jagdish Lal	(May) 60	Mangat Ram v. Babu Ram	(Dec) 132
Abdul Samad v. State of J. and K.	(May) 52	Nasib Singh v. Bajo Ram	(Jan) 9 (FB)
Akbar v. Shamma	(Nov) 121	Om Parkash v. Hari Ram	(Nov) 126
Bakru v. Badaruddin	(Jan) 1 (FB)	Om Parkash v. Sardar Kulbir Singh	(Dec) 134
Bishan Singh v. Murti Shivji	(May) 50	Ram Dass v. Chandu Lal	(Jan) 12
Buta v. Kaka	(March) 33	Rattan Lal v. State	(Jan) 5
Durga Dass v. Amar Nath	(Dec) 140	Samad Bhat v. State	(Sep) 105
Ghulam Ahmed Sh. v. State of Jammu and Kashmir	(Sep) 102	Saraf, S. L. v. M. S. Qureshi	(March) 36
Girdharilal Anand Saraf v. State of Jammu and Kashmir	(Nov) 113 (FB)	Sheikh Abdul Rehman v. Jagat Ram Aryan	(Jan) 16
Jammu and Kashmir Bank v. Lal Mohamed Bangroo	(Feb) 25 (FB)	State of Jammu and Kashmir v. Haji Ghulam Nabi	(Nov) 124
Kanwal Krishen v. University of J. and K.	(Sep) 108	Subhash Chander v. Bodh Raj	(Jan) 8
Karim Bux v. State of Jammu and Kashmir	(June) 77	Syed Siraj-ul Din v. Karim Dar	(May) 62 (FB)
Kuldip Rai v. State of Jammu and Kashmir	(Dec) 142	Union of India v. Sat Pal Dharam Vir	(Nov) 128
Kushma Joshi v. Pro-Vice-Chancellor Jammu and Kashmir University	(Dec) 136	University of Jammu and Kashmir v. Kishen Singh	(Nov) 120
Mahomad Bhat v. State	(June) 76	Vidhya Devi v. Harish Chander	(Feb) 22
		Wali Mohd. v. Administrator Municipality	(July) 88 (FB)
		Waris Ali v. Ahad Mir	(March) 48

SUBJECT INDEX

Civil Procedura Code (5 of 1908), Pre. — See also Civil P. C. (5 of 1908), S. 114 (Jan) 8

— *Pre. and S. 9* — Provision regarding bar of jurisdiction—Rule as to (Jan) 9B

— *Pre.*—Interpretation of Statutes — Court only interprets law as it stands—It does not amend the law — Law as laid down by Supreme Court becomes law of land (Mar) 36E

— *Pre.*—Interpretation of Statutes—Retrospective effect (May) 62E (FB)

— *Pre.* — Precedents—Obiter dicta—Binding nature — Obiter dicta of Supreme Court are binding on High Courts (Jan) 16C

— *Pre.* — Precedents—Obiter of Supreme Court—Observation of Supreme Court even if obiter dicta are entitled to the highest respect (June) 77F

— *Pre.* — Repealing provision — Presumption as to—(General Clauses Act (1897), S. 6) (Jan) 9C

Civil P. C. (contd.)

— *S. 9* — Dispossession of tenant by landlord—Civil suit maintainable—See Tenancy Laws—J. and K. Tenancy Act (2 of 1923) (as amended by Act 12 of 1955), S. 85 (Jan) 9A (FB)

— *S. 9*—Bar of jurisdiction of Civil Court — Cannot be spelled out by a process of implied reasoning — See Civil P. C. (1908), Pre. (Jan) 9B (FB)

— *S. 9* — University Regulations, Reg. 3—Exclusion of jurisdiction of Civil Courts — Provision of special remedy does not bar general remedy of suit (Nov) 120

— *S. 9* — Seizure of goods maliciously by Land Customs Authorities—Suit for damages — Expenses incurred in proceedings before authorities cannot be granted—See Tort (Nov) 128B

— *S. 12* — Attachment by Criminal Court under S. 146 (1), Criminal P. C. and directing parties to Civil Court for resolving dis-

Civil P. C. (contd.)

pute as to possession — Suit for declaration filed — Dismissed for default of appearance — Whether subsequent suit barred — *See* Limitation Act (1908), S. 23 (Mar) 48

— *S. 96* — Appeal — Appeal against decree — Party is entitled to appeal against that part of decree which adversely affects him (Feb) 25A (FB)

— *S. 115 and O. 14, R. 5* — Expression “case decided” — Meaning — Expression does not mean conclusion of entire proceeding — It covers part of the proceedings in which some claim or right is decided — Order under O. 14, R. 5 — Revision maintainable (May) 50

— *Ss. 144, 151* — Abuse of process of Court — Restitution — Court has inherent power to grant (Jan) 8

— *S. 151* — Abuse of process of Court — Restitution — Court has inherent power to grant — *See* Civil P. C. (1908), S. 144 (Jan) 8

— *S. 151, O. 38, R. 5 and O. 41, R. 23* — Order of attachment before judgment — Remand by District Judge on appeal — Order of remand, held, was one under S. 151 and not under O. 41, R. 23 (Feb) 22B

— *O. 9, R. 9* — Declaratory suit as to possession of land attached under S. 146 (1), Criminal P. C. — Dismissal for non-appearance — Subsequent suit for same relief — Whether barred under O. 9, R. 9 read with S. 12, Civil P. C. — *See* Limitation Act (1908), S. 23 (Mar) 48

— *O. 14, R. 5* — Expression “case decided” — Does not mean conclusion of whole proceeding — It covers part of proceedings in which some claim or right is decided — *See* Civil P. C. (1908), S. 115 (May) 50

— *O. 18, R. 2* — Party on whom burden of some issues is placed, not giving any evidence — Other party has right to lead evidence on such issues — Denial of such right would be against principles of natural justice (Nov) 124

— *O. 38, R. 5* — Attachment before judgment — Notice to show cause is not obligatory — It is in the discretion of court — Discretion has to be exercised according to exigencies of situation (Feb) 22A

— *O. 38, R. 5* — Attachment before judgment — Appeal to District Judge — Remand — Order of remand is one under S. 151 — *See* Civil P. C. (1908), S. 151 (Feb) 22B

— *O. 41, R. 23* — Remand in appeal against order of attachment before judgment — Order of remand is one under S. 151 and not under O. 41, R. 23 — *See* Civil P. C. (1908), S. 151 (Feb) 22B

Constitution of Jammu and Kashmir, 1956 —
S. 69 — Jammu and Kashmir Representation of the People Act (4 of 1957), S. 44 — “Holds any office of profit” — Meaning of — Mere issue of letter of appointment — Not enough (Jan) 12A

— *S. 69* — Jammu and Kashmir Representation of the People Act (4 of 1957), S. 44 — Objection to validity of nomination paper — Onus to prove disqualification or defect is on party who raises objection — Returning officer cannot ask the candidate to whose nomination objection has been raised, to prove that he is qualified (Jan) 12B

— *S. 69* — Jammu and Kashmir Representation of the People Act (4 of 1957), S. 44 — Jammu and Kashmir Representation of People Rules — Contractual obligation to serve under Government on a future date — No disqualification for being chosen as a member of Legislature (Jan) 12C

— *S. 69* — Jammu and Kashmir Representation of the People Act (4 of 1957), S. 44 — Subsequent disqualification cannot be taken into account for validity of nomination paper on the date of scrutiny (Jan) 12D

— *S. 69* — Jammu and Kashmir Representation of the People Act (4 of 1957), S. 24 (d) — “Any services” — Meaning of (Jan) 12E

— *S. 69* — Jammu and Kashmir Representation of the People Act (4 of 1957), S. 44 — Improper rejection of nomination papers — Presumption (Jan) 12F

— *S. 103* — High Court need not admit every writ — Can dismiss in limine — *See* Constitution of India, Art. 226 (Sep) 108A

Constitution of India, Art. 5 — Companies or corporations are not included within the ambit of the term “permanent resident” — *See* Jammu & Kashmir Constitution Act (1996), S. 1 (Feb) 25B (FB)

— *Art. 6* — Companies or corporations are not included within the ambit of the term “permanant resident” — *See* Jammu & Kashmir Constitution Act (1996), S. 1 (Feb) 25B (FB)

— *Art. 13* — Doctrine of eclipse does not apply to post-Constitution amendment — *See* J. & K. Public Premises (Eviction of Unauthorised Occupants) Act (13 of 1959), S. 5 (July) 88A (FB)

— *Art. 14* — Provisions of S. 52, Forest Act and Ss. 90 and 91 of J. & K. Land Revenue Act do not violate Art. 14 and are valid — *See* Forest Act (1927), S. 52 (May) 52C

— *Art. 14* — Provisions of S. 5, J. & K. Public Premises (Eviction of Unauthorised Occupants) Act 1959, violate Art. 14 — *See* J. & K. Public Premises of (Eviction of Unauthorised Occupants) Act (1959), S. 5 (July) 88A (FB)

Constitution of India (contd.)

—*Arts. 14, 29 (2)* — Reasonable classification based on intelligent differentia for purpose of special treatment is not prohibited— Admission to university classes — Reservation made for children of ex-service men and service men proceeds on reasonable basis and such classification is permissible under Art. 14 (Dec) 136

—*Art. 22*—Detention can be ordered even where criminal proceedings can be launched — See Public Safety — Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 3 (June) 77J

—*Art. 22* — Person under detention — No bar to revocation of previous order and passing fresh order of detention — See Public Safety — J. & K. Preventive Detention Act (1964), S. 3 (June) 77K

—*Art. 22 (1)* — Natural justice — Opportunity of representation against order of detention — Whether necessary—See Public Safety—J. & K. Preventive Detention Act (1964), S. 9 (June) 77D

—*Art. 22 (1)* — Confirmation of detention order by Government — No Judicial approach necessary—See Public Safety — Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 12 (June) 77G

—*Art. 29 (2)* — Admission to university classes — Reservation made for children of ex-service men and service men—Validity— See Constitution of India, Art. 14 (Dec) 136

—*Art. 58* — “Holds any office of profit” — Meaning of—See Constitution of Jammu and Kashmir, S. 69 (Jan) 12A

—*Art. 84 (a)* — Rejection of nomination paper—Oath should be made and subscribed to before the date of the scrutiny — See Representation of the People Act (1951), S. 36 (2) (a) (Mar) 36D

—*Art. 141*—Obiter dicta of Supreme Court are binding on High Courts—See Civil P. C. (1908), Preamble (Jan) 16C

—*Art. 141*—Law as laid down by Supreme Court becomes law of land — See Civil P. C. (1908), Pre. (Mar) 36E

—*Art. 141* — Advice by Board of Advisers in Jammu and Kashmir accepted by the Ruler—Supreme Court of India can overrule it (May) 62D (FB)

—*Art. 141* — Even obiter dicta of Supreme Court are entitled to highest respect—See Civil Procedure Code (5 of 1908), Pre. (Jun) 77F

—*Art. 173 (a)* — Rejection of nomination paper—Oath should be made and subscribed to before the date of the scrutiny — See Representation of the People Act (1951), Section 36 (2) (a) (Mar) 36D

Constitution of India (contd.)

—*Art. 191* — “Holds an office of profit”— Meaning of—See Constitution of Jammu and Kashmir, S. 69 (Jan) 12A

—*Arts. 191-192* — Objections as to validity of nomination paper — Onus of proof—See Constitution of Jammu and Kashmir, S. 69 (Jan) 12B

—*Art. 191* — Contractual obligation to serve Government in a future date—No disqualification for being chosen as a member of Legislature — See Constitution of Jammu and Kashmir, S. 69 (Jan) 12C

—*Art. 191* — Subsequent disqualification cannot be taken into account for validity of nomination paper on date of scrutiny—See Constitution of Jammu and Kashmir, S. 69 (Jan) 12D

—*Art. 191*—“Any services” — Meaning of — See Constitution of Jammu and Kashmir, S. 69 (Jan) 12E

—*Art. 226* — Confirmation of order of detention by Government — No notice to detenu is necessary — See Public Safety — Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 12 (Jun) 77H

—*Arts. 226 and 227* — Procedure—Admission of every Writ Petition not obligatory on High Court — Dismissal in limine permissible (Sep) 108A

—*Art. 226*—Natural justice, violation of — Question of violation will depend on facts of each case (Sep) 108B

—*Art. 226* — Party on whom burden of some issues is placed not giving evidence — Other party can lead evidence on such issues—Denial of right—Violation of principle of natural justice—See Civil P. C. (1908), O. 18, R. 2 (Nov) 124

—*Arts. 246, 370*—Jammu and Kashmir Preventive Detention Act (13 of 1964) — Not ultra vires of State Legislature (Jun) 77H

—*Arts. 301, 304*—Jammu and Kashmir Levy of Tolls Act (8 of 1995), S. 3—Validity—Toll charged for use of road within State — No extra-territorial application—Rate of charge based on laden weight of vehicle — S. 3 is not violative of Art. 301 (Nov) 113E (FB)

—*Art. 304* — Levy of toll under has no bearing on inter-State trade and commerce and not violative of Art. 301—No consent of President is necessary — See Constitution of India, Art. 301 (Nov) 113E (FB)

—*Art. 356* — Ordinance—Nature of—See J. & K. Constitution Act (14 of 1996), S. 5 (Jan) 5

—*Art. 358* — Emergency — Ordinance is sued during — Nature—See J. & K. Constitution Act (14 of 1996), S. 5 (Jan) 5

—*Art. 360* — Ordinance—Nature of — See J. & K. Constitution Act (14 of 1996), S. 5 (Jan) 5

Constitution of India (contd.)

—*Art. 370* — Jammu and Kashmir Preventive Detention Act, 13 of 1964 — Not ultra vires State Legislature — *See* Constitution of India, Art. 246 (Jun) 77H

—*Art. 372*—Ordinance — Nature of — *See* J. and K. Constitution Act (14 of 1996), S. 5 (Jan) 5

—*Sch. 7, List I, Entry 23 and List II, Entry 59*—Levy of toll-tax—Exclusive jurisdiction of State Legislature — Jammu and Kashmir Act (8 of 1995) is constitutional — No conflict between List I, Entry 23 and List II, Entry 59 (Nov) 113A (FB)

—*Sch. 7 List II, Entry 59* — No conflict between List I Entry 23 and List II Entry 59 (Nov) 113A (FB)

Criminal Procedure Code (5 of 1898), S. 1—Existence of civil remedy does not exclude trial by criminal Court of offence—Fact that complainant is entitled to both civil and criminal remedies does not disentitle him to take recourse to criminal remedy (Dec) 134B

—*Ss. 109, 118, 406 and 439* — Order under — No second appeal lies against order—Second appeal filed was treated as revision (Sep) 105A

—*Ss. 109, 118 and 123*—Facts proved, held could not attract provisions to the case—Accused to be released the moment security is furnished (Sep) 105B

—*S. 118*—Order under S. 118—No second appeal—Appeal filed under S. 406 treated as revision under S. 439 — *See* Criminal P. C. (1898), S. 109 (Sep) 105A

—*S. 118* — Facts proved not attracting provisions of S. 109— Application of S. 118 not warranted — *See* Criminal P. C. (1898), S. 109 (Sep) 105B

—*S. 123*—No order of imprisonment when security is given—*See* Criminal P. C. (1898), S. 109 (Sep) 105B

—*S. 146 (1)* — Attachment of land under and directing parties to civil Court to resolve dispute as to possession—Suit for declaration — Dismissed for non-appearance — Subsequent suit for same relief — Whether barred—*See* Limitation Act (1908), S. 23 (Mar) 48

—*S. 350*—Applicability—Provisions apply only to Magistrates — Sessions Judge not empowered to resume the trial from the point it was left by predecessors—Such a procedure vitiates the trial — Fact that accused did not object to the trial would not make any difference in the legal position (Jun) 76

—*S. 406*—Order under S. 118—No second appeal — Appeal filed under S. 406 treated

Criminal P. C. (contd.)

as revision under S. 439—*See* Criminal P. C. (1898), S. 109 (Sep) 105A

—*S. 432 (added by J. and K. Act 27 of 1957)* — Reference to High Court — Conditions under which a trial Magistrate can make a reference explained (May) 69

—*S. 439*—Order under S. 118—No second appeal — Appeal filed under S. 406 treated as revision under S. 439—*See* Criminal P. C. (1898), S. 109 (Sep) 105A

—*S. 561-A*— Order under — When can be passed (Dec) 132

—*S. 561-A*—Power under — Exercise of at interlocutory stage (Dec) 134A

Defence of India Rules (1962), R. 30—Previous detention under Defence of India Rules —He can subsequently be detained for reasons of security of State—*See* Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 3 (June) 77I

—*Rr. 30 (1) (b) and 30A (9)* — Fresh order under R. 30 (1) (b) correcting earlier defective order is permissible—Resort to review under R. 30A (9) is not necessary in all cases (Sep) 102B

—*R. 30A (9)* — Correction of order under S. 30 (1) (b)—Review under R. 30-A (9) not necessary—*See* Defence of India Rules (1962), R. 30 (Sep) 102B

Doctrine of eclipse

—*See* Constitution of India, Art. 13.

EDUCATION

— *See also* Constitution of India, Art. 14 and Art. 29 (2)

—**University Regulations, Reg. 3**—Jurisdiction of civil Court not barred by Regulation—*See* Civil Procedure Code (5 of 1908), S. 9 (Nov) 120

Evidence Act (1 of 1872), Ss. 101-104—Objection as to validity of nomination paper—Onus to prove disqualification or defect is on party who raises the objection—*See* Constitution of Jammu and Kashmir, S. 69 (Jan) 12B

—*Ss. 101-104*—Scope—If no or insufficient evidence is given, party who has to prove his case in order to succeed in an action, must fail—(Obiter) (Mar) 36A

—*Ss. 101-104* — Standard of proof for establishing corrupt practice should be that of criminal case—*See* Representation of the People Act (1951), S. 129 (Mar) 36G

—*S. 114*—Improper rejection of nomination paper—Presumption—*See* Constitution of Jammu and Kashmir, S. 69 (Jan) 12F

Forest Act (16 of 1927), S. 2 (b)—Forest produce—Money claimed by Government from forest contractor is price of forest produce—*See Forest Act (1927), S. 52* (May) 52B
—Ss. 52 and 2 (b)—‘Forest produce’—Removal and conversion of Timber from trees marked for felling—Right given to contractor—Money claimed by Government from the contractor is the price of forest produce (May) 52B
—S. 52—Validity—Provisions of S. 52 and Ss. 90 and 91 of J. and K. Land Revenue Act do not violate Art. 14 of the Constitution and are valid (May) 52C

General Clauses Act (10 of 1897), S. 6—Repeal—Presumption as to—*See Civil P. C. (1908), Preamble* (Jan) 9C (FB)

HOUSES AND RENTS

—J. & K. Houses and Shops Rent Control Act (14 of 2009 Smt), S. 11 (1) (h)—Suit for ejectment under—Notice to quit is imperative—*See Transfer of Property Act (4 of 1882), S. 106* (Nov) 126

Interpretation of Statutes—Retrospective effect—*See Civil P. C. (1908), Preamble* (May) 62E (FB)

Jammu and Kashmir Constitution Act (1996), Ss. 1 to 8 and 5B, 5C (as amended in 2001)—Companies are excluded from purview of State subjects—They are not permanent residents—Mortgage of immovable property in their favour is invalid (Feb) 25B (FB)

—Ss. 5 and 38—Jammu and Kashmir Essential Supplies (Temporary Powers) Ordinance, 2003—Difference between Ordinance issued under S. 5 and one issued under S. 38—Former has a force of law and no Court can challenge its legality—The latter, however, will be a law for six months—Essential Supplies (Temporary Powers) Ordinance, having been issued under S. 5 has force of law—Prosecution under it is not barred (Jan) 5

—S. 5-B—Provision corresponding to S. 5B has been omitted by Amendment of Constitution Act of 2007—Companies are excluded from purview of “permanent subjects”—*See J. and K. Constitution Act (1996), S. 1* (Feb) 25B (FB)

—S. 5C—Companies are excluded from purview of “permanent subjects”—*See Jammu and Kashmir Constitution Act (1996), S. 1* (Feb) 25B (FB)

—S. 38—Difference between Ordinance issued under S. 5 and one under S. 38—Former has a force of law and no Court can challenge its legality—Latter however will

Jammu and Kashmir Constitution Act (contd.) be law for six months—*See J. and K. Constitution Act (14 of 1996), S. 5* (Jan) 5

Jammu and Kashmir Evacuees’ (Administration of Property) Act (6 of 2006), S. 8—Area of jurisdiction of Custodian General in revision—Same as appellate jurisdiction—*See Jammu and Kashmir Evacuees’ (Administration of Property) Act (6 of 2006), S. 30 (1) (b) (c)* (Jan) 1A (FB)

—S. 14—Revisional jurisdiction of custodian general—Scope—*See Jammu and Kashmir Evacuees’ (Administration of Property) Act (6 of 2006), S. 30 (1) (b) (c)* (Jan) 1A (FB)

—S. 25—Revisional jurisdiction of custodian general—Nature of—*See Jammu and Kashmir Evacuees’ (Administration of Property) Act (6 of 2006), S. 30 (1) (b) (c)* (Jan) 1A (FB)

—Ss. 30 (1) (b) and (c), 8, 14 and 25—Area of jurisdiction exercised by Custodian-General in revision—For all practical purposes same as appellate jurisdiction (Jan) 1A (FB)

—S. 30 (c)—Word “the” occurring in Cl. (c) does not oust High Court’s jurisdiction to hear appeal from Custodian-General’s order (Jan) 1B (FB)

Jammu and Kashmir Houses and Shops Rent Control Act (14 of 2009 Smt).
See under Houses and Rents.

J. & K. Land Revenue Act (12 of 1996), S. 90—Validity—Not violative of Art. 14 of the Constitution—*See Forest Act (1927), S. 52* (May) 52C

—S. 91—Validity—Not violative of Art. 14—*See Forest Act (1927), S. 52* (May) 52C

Jammu and Kashmir Land Grants Act (38 of 1960), Ss. 6 and 13 and Rules, R. 21—Possession from lessee can be taken only after paying compensation—So long as compensation is not paid possession of lessee continues to be lawful (July) 88B (FB)

—S. 13—So long as compensation is not paid possession of lessee continues to be lawful—*See Jammu & Kashmir Land Grants Act (38 of 1960), S. 6* (July) 88B (FB)

—Rules under, R. 21—So long as compensation is not paid possession of lessee continues to be lawful—*See Jammu and Kashmir Land Grants Act (38 of 1960), S. 6* (July) 88B (FB)

J. and K. Laws Consolidation Act (Smt. 1977), S. 4 (1) (b)—Constitution of Jammu and Kashmir (1957), S. 157—Advice tendered by Board of Advisers—Command order of the

J. & K. Laws Consolidation Act (contd.)

Ruler accepting advice—Becomes law of the State (May) 62B (FB)

Jammu and Kashmir Levy of Tolls Act (8 of 1995), S. 3—Levy of toll under—It is tax and not fee (Nov) 113D (FB)

—S. 3—Not violative of Art. 301—See Constitution of India, Art. 301

(Nov) 113E (FB)

(J. & K.) Limitation Act (9 of 1995), S. 23—

Suit for perpetual injunction for prevention of wrong—Case, one of continuing wrong—S. 23 held applicable—See Limitation Act (1908), S. 23 (Dec) 140

—Art. 84—Suit land purchased by A on 23-1-2006 (BK) from B and C—They undertaking to close door and window of house opening on suit land—Subsequently B and C selling their house to D—D declining to close door and window—Suit by A against D, B and C filed on 2-4-1960 (AD), held, not barred by limitation—S. 23, held applicable—See Limitation Act (1908), S. 23 (Dec) 140

—Art. 119—Suit land purchased by A on 23-1-2006 (BK) from B and C—They undertaking to close door and window of house opening on suit land—Subsequently B and C selling their house to D—D declining to close door and window—Suit by A against D, B and C filed on 2-4-1960 (A.D), held not barred by limitation—S. 23, held applicable—See Limitation Act (1908), S. 23 (Dec) 140

Jammu and Kashmir Preventive Detention Act (13 of 1964)

See under Public Safety.

Jammu and Kashmir Public Premises (Eviction of Unauthorised Occupants) Act (13 of 1959), S. 5 (prior to its amendment) and S. 15—

Validity—Provisions of S. 5 violate Art. 14 of the Constitution—Proceedings taken under the provisions are illegal—Subsequent amendment does not validate the proceedings—S. 15 is ultra vires the State Legislature—Being a post-Constitution amendment doctrine of eclipse does not apply (July) 88A (FB)

—S. 15—Section is ultra vires the State Legislature—See Jammu and Kashmir Public Premises (Eviction of Unauthorised Occupants) Act (13 of 1959), S. 5 (July) 88A (FB)

Jammu & Kashmir Representation of the People Act (4 of 1957), S. 24 (d)—“Any services”—Meaning of—See Constitution of Jammu & Kashmir, S. 69 (Jan) 12E

—S. 41—“Holds an office of profit”—Meaning of—See Constitution of Jammu and Kashmir, S. 69 (Jan) 12A

—S. 41—Objection to validity of nomination paper—Onus to prove disqualification

J. & K. Representation of the People Act (contd.)

on party raising the objection—See Constitution of Jammu and Kashmir, S. 69 (Jan) 12B
—S. 44—Contractual obligation to serve under Government on a future date—Is no disqualification for being a member of Legislature—See Constitution of Jammu & Kashmir, S. 69 (Jan) 12C

—S. 44—Subsequent disqualification cannot be taken into account for validity of nomination paper on date of scrutiny—See Constitution of Jammu & Kashmir, S. 69 (Jan) 12D

—S. 44—Improper rejection of nomination papers—Presumption—See Constitution of Jammu and Kashmir, S. 69 (Jan) 12F

—S. 44 (4), Proviso—Nomination paper filed by a candidate—Father's name wrongly printed in electoral roll—Wrong mention held was an error which under the Proviso should be ignored (Jan) 16A

—S. 47—“On the date fixed for scrutiny”—Meaning of—“Date” means the whole of day. AIR 1968 Mys 18 and AIR 1966 Madh-Pra 255, Diss—See J. & K. State Constitution (1956), S. 51 (Jan) 16D

—S. 47—Subscription on oath—Essential qualification—Duty of candidate—See J. & K. State Constitution (1956), S. 51 (Jan) 16E

—S. 89—Trial of election petition—Documents not produced before Returning Officer can be produced and new grounds can be taken at the trial—Returning Officer decides only the validity or otherwise of the nomination paper in a summary manner (Jan) 16B

J. and K. Right of Prior Purchase Act (2 of Smt. 1993), S. 14 (as amended by Act 23 of 1959)

Suit for pre-emption—Amendment of the Act improving defendant vendee's title—Amendment not retrospective—Vendee cannot take advantage—AIR 1965 J and K 62 (FB), Overruled (May) 62A (FB)

—S. 14—Amendment of by J. and K. Act of 23 of 1959—Amendment not retrospective—Does not affect prior rights of agnates and co-sharers (Majority view) (May) 62C (FB)

—S. 14 (b), (Fourthly)—“Co-sharer”—Meaning has to be gathered from cases decided (Nov) 121

Jammu and Kashmir State Constitution (1956), S. 51—Jammu and Kashmir Representation of the People Act (4 of 1957), S. 47—“On the date fixed for scrutiny”—Meaning of—“Date” means the whole of the day. AIR 1968 Mys 18 and AIR 1966 Madh Pra 255, Diss. (Jan) 16D

—S. 51—Subscription of oath—Essential qualification—Duty of candidate—Rejection

Jammu and Kashmir State Constitution (1956)
(*contd.*)
of a nomination paper for non-administering
of oath not improper (Jan) 16E

Jammu and Kashmir Tenancy Act (2 of 1923)
See under Tenancy Laws

Jammu and Kashmir Tenancy Act (2 of 1980 Smt.)
See under Tenancy Laws.

Land Acquisition Act (1 of 1894), Ss. 23 (1) and (2), 28 and 35 — Solatium is part of the compensation—Interest is payable on the solatium amount as well (Dec) 142B
—Ss. 28 & 35—Payment of interest obligatory (Dec) 142A

—S. 28 — Interest is payable on the solatium amount as well—See Land Acquisition Act (1894), S. 23 (1) & (2) (Dec) 142B

—S. 35—Payment of interest is obligatory—See Land Acquisition Act (1894), S. 28 (Dec) 142A

—S. 35 — Interest is payable on the solatium amount as well—See Land Acquisition Act (1894), S. 23 (1) & (2) (Dec) 142B

Letters Patent (Jammu and Kashmir), Cl. 12—
Judgment—Meaning—Order even if it does not finally dispose of the suit pro tanto, is a judgment' if it determines the rights of parties—Orders of character specified in S. 104 and O. 43, R. 1, Civil P. C. except Cl. (JJ) of J. & K. Civil P. C. are judgments: (May) 52A

Limitation Act (9 of 1908), S. 23 and Arts. 47 and 142 — Civil P. C. (1908), S. 12 and O. 9, R. 9—Criminal P. C. (1898), S. 146 (1)—Magistrate attaching land in dispute under S. 146 (1) and directing parties to resolve dispute as to possession by civil Court—Suit for declaration as to possession — Dismissal for non-appearance — Subsequent suit for same relief not barred under O. 9, R. 9 read with S. 12 of Civil P. C.—Same was also not time barred as S. 23 applied and not Arts. 47 and 142 (Mar) 48

—S. 23, Arts. 113, 120 — Suit for perpetual injunction for prevention of wrong—Maintainability—Suit land purchased by A on 23-1-2006 (BK) from B and C—B and C undertaking to close door and window of the house opening on suit land—Subsequently B & C selling their house to D—D declining to close door and window—Suit by A against D, B and C filed on 2-4-1960 (A.D.) — Case, one of continuing wrong — S. 23 held applicable and suit was not barred by limitation (Dec) 140

—Arts. 2, 14—Goods of plaintiff seized maliciously and without sufficient cause by 1969 (J. E.) Indexes 1/(2)—4 pages

Limitation Act (1908) (*contd.*)

Land Customs authorities on 23-6-1960—
Final order passed by Ministry of Finance on 15-12-1962—Suit for return of goods or for price thereof filed on 2-11-1963—Suit is not barred by limitation — Art. 14 is applicable and not Art. 2 (Nov) 128C

—Art. 14 — Malicious seizure of goods—
Suit for return of goods or for price thereof —Art. 14 and not Art. 2 applies—See Limitation Act (1908), Art. 2 (Nov) 128C

—Art. 47—Applicability — See Limitation Act (1908), S. 23 (Mar) 48

—Art. 113—Suit land purchased by A on 23-1-2006 (B. K.) from B and C — B and C undertaking to close door and window of house opening on suit land — Subsequently B and C selling their house to D—D declining to close door and window—Suit by A against D, B and C filed on 2-4-1960 (A. D.)—S. 23 held applicable and suit was not barred by limitation — See Limitation Act (1908), S. 23 (Dec) 140

—Art. 120 — Suit land purchased by A on 23-1-2006 (B. K.) from B and C — B and C undertaking to close door and window of house opening on suit land—Subsequently B and C selling their house to D—D declining to close door and window—Suit by A against D, B and C filed on 2-4-1960 (A. D.)—S. 23 held applicable and suit was not barred by limitation—See Limitation Act (1908), S. 23 (Dec) 140

—Art. 142—Applicability—See Limitation Act (1908), S. 23 (Mar) 48

Maxims—Actus curiae neminem gravabit — S. 151 C. P. C. is based on the principle of the maxim—See Civil P. C. (1908), S. 144 (Jan) 8

National Highways Act (48 of 1956), S. 4—
Vesting under, of national highway, in Union of India—No transfer of its ownership from State Government to Union Government—
Right of Union Government is limited only for its maintenance and proper up keep (Nov) 113B (FB)

—S. 7—Levy of fee under, is not on road —Can be imposed in addition to other taxes (Nov) 113C (FB)

Preventive Detention Act (4 of 1950)
See under Public Safety.

PUBLIC SAFETY

—Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 3 — Not ultra vires State Legislature — See Constitution of India, Art. 246 (June) 77I

—Ss. 3 and 5—Composite order containing direction as to detention and place of detention—Order severable—Not invalid (June) 77A

Public Safety — J. & K. Preventive Detention Act (contd.)

—S. 3—Previous detention under Defence of India Rules — He can subsequently be detained for reasons of security of State (June) 77I

—S. 3—Detention can be ordered even where criminal proceedings can be launched (June) 77J

—S. 3—Person under detention—No bar to revocation of previous order and passing fresh order of detention (June) 77K

—S. 5—Composite order containing directions as to detention and place of detention —Order severable—Not invalid—*See* Public Safety — Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 3 (June) 77A

—S. 8—Grounds of detention—Information on which order of detention is based need not be communicated to detenu (June) 77B

—S. 8—Advisory Board—Not called upon to ask for a representation from the detenu —*See* Public Safety—Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 3 (June) 77D

—Ss. 9, 10 and 8—Rules of natural justice —Advisory Board—Board not called upon to ask for any representation from detenu (June) 77D

—S. 10—Advisory Board—Not a judicial or quasi-judicial body (June) 77C

—S. 10—Advisory Board—Board not called upon to ask for any representation from detenu — *See* Public Safety — Jammu and Kashmir Preventive Detention Act (13 of 1964), S. 3 (June) 77D

—S. 11—Scope—Personal hearing — Detenu must ask for—Board not obliged to intimate (Sep) 102C

—S. 11 (1) and (2)—Opinion of Advisory Board—Government's discretion to accept—When to be exercised (June) 77E

—S. 12—Confirmation of order of detention by Government—No judicial approach necessary—No notice to detenu is necessary (June) 77G

—Preventive Detention Act (4 of 1950), S. 3 — Fresh detention order—Order can be served on detenu even while he is in jail (Sep) 102A

—S. 3 (1) (a)—Correctness of grounds or their sufficiency is not justiciable—*See* Public Safety — Preventive Detention Act (4 of 1950), S. 7 (1) (Sep) 102D

—Ss. 7 (1), 3 (1) (a)—Grounds of detention — Affidavit of Home Secretary that activities of detenu threatening public safety and maintenance of public order—Correctness or sufficiency of grounds held not justiciable (Sep) 102D

Representation of the People Act (43 of 1951), S. 7—Disqualification—*See* Constitution of Jammu and Kashmir, S. 69 (Jan) 12E

—S. 22(2) (as amended in 1956)—Powers of Asst. Returning Officer — Nomination paper suffering from inherent defect apparent on face of nomination paper — Held on facts that its rejection by Returning Officer or even by Asst. Returning Officer was not improper (Mar) 36C

—S. 36 (2) (a)—Rejection of nomination paper—Oath should be made and subscribed to before the date of the scrutiny. AIR 1968 Mys 18, *Held no longer good law* (Mar) 36D

—S. 100 — Scope — Returned candidate should not be unseated unless petitioner proves his case very very clearly (Mar) 36B

—S. 100 (1) (c)—Scope—Improper rejection of nomination paper—Election can be declared void on this ground alone—It is not necessary further to prove that election of returned candidate is materially affected (Mar) 36F

—S. 129—Standard of proof — Standard of proof for establishing corrupt practice should be that of criminal case (Mar) 36G

Specific Relief Act (1 of 1877), S. 9 — Dispossession of tenant by landlord—Remedies for tenant — *See* Tenancy Laws — J. and K. Tenancy Act (2 of 1923) (as amended by Act 12 of 1955), S. 85 (Jan) 9A (FB)

TENANCY LAWS

—J. & K. Tenancy Act (2 of 1923) (as amended by Act 12 of 1955), S. 2 (5)—Dispossession of tenant by landlord — Tenant's remedies — Civil suit maintainable — No alternative right to proceed in Revenue Court (Per Majority) — *See* Tenancy Laws — J. & K. Kashmir Tenancy Act (2 of 1923) (as amended by Act 12 of 1955), S. 85 (Jan) 9A (FB)

—S. 56 (1) — Dispossession of tenant by landlord—Remedies for tenant—*See* Tenancy Laws — Jammu and Kashmir Tenancy Act (2 of 1923) (as amended by Act 12 of 1955), S. 85 (Jan) 9A (FB)

—Ss. 85, 2 (5) and 56 (1) — Dispossession of tenant by landlord—Remedies for tenant — Civil suit maintainable — No alternative right to proceed in Revenue Court (Jan) 9A (FB)

—J. & K. Tenancy Act (2 of 1980 Smt.), Ss. 2 (5), 15A proviso, 85 first group (d) — Induction of tenant by mortgagee on mortgaged land — Tenancy ends with redemption of mortgage — No relationship of tenancy between mortgagor and tenant within meaning of S. 2 (5)

Tenancy Laws—J. & K. Tenancy Act (contd.)

—Eviction of tenant of mortgagee under S. 15A—Civil Court has jurisdiction to pass decree—Section 85 first group (d) is not attracted (Mar) 33B

—S. 15-A, proviso—Mortgage of land with delivery of possession—Induction of tenant on mortgaged land by mortgagee—Eviction of tenant by mortgagor or redemption—When possible (Mar) 33A

—S. 15-A proviso—Eviction of tenant of mortgagee under S. 15A—Civil Court has jurisdiction to pass decree—See Tenancy Laws—J. & K. Tenancy Act (2 of 1980 Smt.), S. 2 (5) (Mar) 33B

—S. 85 first group (d)—Induction of tenant by mortgagee on mortgaged land—Tenancy ends with redemption of mortgage—Eviction of tenant of mortgagee under S. 15A—Civil Court has jurisdiction to pass decree—S. 85 first group (d) is not attracted—See Tenancy Laws—Jammu and Kashmir Tenancy Act (2 of 1980 Smt.), S. 2 (5) (Mar) 33B

Tort—Goods seized maliciously and without sufficient cause by Land Customs authorities—Suit for damages—Plaintiff

Tort (contd.)

claiming expenses incurred by him in proceedings before concerned authorities and the amount levied by them as penalty—Civil Court is not competent to grant relief for such claim (Nov) 128B

—Meaning—Essentials of—Goods of plaintiff seized maliciously and without sufficient cause—Goods converted into money—Plaintiff held entitled to refund of money (Nov) 128A

Transfer of Property Act (4 of 1882), S. 106

—Tenancy-at-will—When is created—Rent note not amounting to contract to contrary—Suit for ejectment under S. 11 (1) (h) of Jammu and Kashmir Rent Control Act—Notice to quit is imperative (Nov) 126

University Regulations

See under Education.

Words and Phrases—“Any services”

—Meaning of—See Constitution of Jammu & Kashmir, S. 69 (Jan) 12E

—“Cosharer”—Meaning—See Jammu and Kashmir Right of Prior Purchase Act (2 of 1993 Smt.), S. 14 (b), Fourthly (Nov) 121

—“Holds”—See Constitution of Jammu and Kashmir, S. 69 (Jan) 12A

**JAMMU & KASHMIR CASES, SUBJECTWISE OVERRULED, REVERSED
AND DISSENTED FROM ETC., IN A. I. R. 1969**

DISS.==Dissented from in; **OVER.**==Overruled in;
REVERS.==Reversed in.

Constitution of India

- Art. 309—A I R 1965 J & K 15 (FB)—**Diss.** AIR 1969 All 449 (Sep) (FB).
- Art. 310—AIR 1965 J & K 15 (FB)—**Diss.** AIR 1969 All 449 (Sep) (FB).
- Art. 311—A I R 1965 J & K 15 (FB)—**Diss.** AIR 1969 Delhi 170A (June).
- Art. 311 (2)—AIR 1965 J & K 15 (FB)—**Diss.** AIR 1969 All 449 (Sep) (FB).

Jammu and Kashmir Right of Prior Purchase Act (2 of 1993 Smt.)

- S. 14—AIR 1965 J & K 62 (FB)—**Over.** AIR 1969 J & K 62A (May) (FB).

Representation of the People Act (43 of 1951)

- S. 87—AIR 1960 J & K 25—**Diss.** A I R 1969 Raj 75B (Mar).

JAMMU AND KASHMIR CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

DISS.=Dissented from in; OVER.=Overruled in; REVERS.=Reversed in.

<p>AIR 1960 J & K 25 (FB), Dina Nath Kaul v. Election Tribunal Jammu & Kashmir —Diss. AIR 1969 Raj 75B (Mar).</p> <p>AIR 1965 J & K 15=1964 Kash L J 366 (FB), Abdul Khalik v. State—Diss. AIR 1969 All 449 (Sep) (FB).</p>	<p>A I R 1965 J & K 15=1964 Kash L J 366 (FB), Abdul Khalik Renzu v. State of J. & K.—Diss. A I R 1969 Delhi 170A (June).</p> <p>AIR 1965 J & K 62=1965 Kash L J 105 (FB), Master Sewnath v. Faqir Chand —Over. AIR 1969 J & K 62A (May) (FB).</p>
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COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous Years

Owing to late receipt of other Journals the following *Supplement to Comparative Tables of A. I. R. = Other Journals* is issued

A. I. R. J. & K. = Other Journals

AIR	Other Journals	AIR	Other Journals
37	(1969) 2 Lab L J 78	26	1968 Serv L R 688
98	(1968) 2 Lab L J 780	46	1969 Kash L J 372
	18 Fac L R 112		

AIR 1969 Jammu and Kashmir = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [CN 1]		33 [CN 9]		77 [CN 17]		126 [CN 26]	
FB 1968 Kash L J 177		1968 Kash L J 158		1969 Cri L J 907		1968 Kash L J 445	
5 [CN 2]		36 [CN 10] ...		88 [CN 18]		128 [CN 27]	
1968 Kash L J 299		48 [CN 11]		FB 1968 Kash L J 392		1969 Kash L J 1	
1969 Cri L J 67		1968 Kash L J 116		102 [CN 19]		132 [CN 28]	
8 [CN 3] ...		50 [CN 12]		1968 Kash L J 262		1969 Cri L J 1609	
9 [CN 4]		1969 Kash L J 176		1969 Cri L J 1135		134 [CN 29]	
FB 1968 Kash L J 127		52 [CN 13] ...		105 [CN 20]		1969 Kash L J 58	
12 [CN 5] ...		60 [CN 14]		1969 Cri L J 1139		1969 Cri L J 1610	
16 [CN 6] ...		1969 Cri L J 610		109 [CN 21] ...		136 [CN 30]	
22 [CN 7]		62 [CN 15]		113FB[CN 22]		1969 Kash L J 147	
1969 Kash L J 16		FB 1968 Kash L J 311		120 [CN 23] ...		140 [CN 31]	
25 [CN 8]		78 [CN 16]		121 [CN 24] ...		1969 Kash L J 124	
FB 1969 Kash L J 181		1969 Kash L J 121		124 [CN 25]		142 [CN 32]	
		1969 Cri L J 747		1969 Kash L J 12		1969 Kash L J 206	

Other Journals = All India Reporter

1968 Kash L J		1968 Kash L J		1969 Kash L J		1969 Kash L J		1969 Kash L J	
Kash LJ	AIR	Kash LJ	AIR	Kash LJ	AIR	Kash LJ	AIR	Kash LJ	AIR
116	1969 J & K 48	360	1969 J & K 113	1	1969 J & K 128	121	1969 J & K 78	262	1970 J & K 17
		392	" " 88	12	" " 124	124	" " 140	278	" " 88
		445	" " 128	16	" " 22	147	" " 186	290	" " 31
158	" " 83			56	" " 134	176	" " 50	300	" " 21
262	" " 102			90	1970 " 19	181	" " 25	355	" " 48
311	" " 62			106	" " 2	208	" " 142	372	1968 " 48
						238	1970 " 26	454	FB " 87

THE
ALL INDIA REPORTER

1969

[Vol. 56]

KERALA SECTION

WITH COMPARATIVE TABLES FOR

- | | |
|-------------------------|------------------------|
| (1) I. L. R. KERALA | (2) KERALA LAW JOURNAL |
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1969

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NOMINAL TABLE

Arakkal Kuruppath Hameed Haji v. Appukutti	(June) 189	Kadija Bai Smt. v. Wealth Tax Officer, A. Ward, Mattancherry	(Mar) 69
Assistant Educational Officer Kuthuparamba v. P. R. Mammoo	(Mar) 91 (FB)	Kanakku Karthiayani v. Neelacanta Pillai	(Oct) 280
Balakrishna Menon v. Inspecting Asst. Commr. of Agricultural Income-tax	(Jan) 1 (FB)	Karthayani v. Raman	(July) 213
Bhagavadas Krishnadas v. P. S. Soma Iyer	(Oct) 263	Kattil Ramam v. Vadakke Poduvath Devaki	(April) 121
Calicut-Wynad Motor Service Private Ltd., Calicut v. Industrial Tribunal, Calicut	(Dec) 310	Kesava Kurup Raghava Kurup v. Thomas Idicula	(Jan) 21
Chori Ouso v. Sasoon Helegua	(Jan) 11	Kolathungal KunhIRaman v. Appa Kunhi	(June) 181
City Corporation of Calicut v. Thachambalath Sadasivan	(April) 99	Komu P. In the matter of	(April) 111
Commissioner of Agrl. Income-tax, Kerala State, Trivandrum v. Nilambur Rubber Co. Ltd., Kozhikode	(Aug) 238	Krishna Pillai Raghavan Pillai v. Karthiayani Amma Sarasamma	(Jan) 26
Commissioner of Income-tax, Kerala v. Travancore Sugars and Chemicals Ltd. Pulikeezh	(July) 196	Kumaran v. CheriYambadan Ayidru	(July) 211
Commissioner, Municipal Council, Tellicherry v. Ramesh S. M. Prabhu	(April) 109 (FB)	Kumaran K. C. v. Vallabhadas Vasanti	(Jan) 9
Deputy Commissioner of Agricultural Income-tax and Sales-tax South Zone, Quilon v. M/s. Aluminium Industries Ltd., Kundara	(July) 205	Kunjamma Cicily v. Kasim Beevi Sulaikha Beevi	(Nov) 293 (FB)
Devassi v. Anthoni	(Mar) 78	Kurian Chacko v. Varkey Ouseph	(Dec) 316
Easwari Pillai K. P. v. Easwara Pillai	(Mar) 73	Kurian T. J. v. State of Kerala	(Mar) 68
Enasu E. v. Edakkulathur Kunjuvareed Antony	(July) 207	Lekshmikutty Amma v. Bathu Kudimi Mathu	(Aug) 234 (FB)
Executive Officer, NediYiruppu Panchayat, In the matter of	(April) 111	Madhavan Nair V. v. M. P. Gopala Panicker	(April) 97
Food Inspector, Corporation Heath Officer, Calicut v. Vijaya-singh Padamshi	(Mar) 79	Mammootty In the matter of	(April) 111
Food Inspector (Health Officer), Calicut Corporation v. C. Gopalan	(June) 179	Manninkal Krishna Kurup v. Swamiyar Avergal	(Feb) 36
Giovanola-Binny Limited, Palluruthy, Cochin v. Industrial Tribunal, Calicut	(Dec) 313	Mery Metlida v. Kunjiran Kunju Kathija Ummal	(May) 149
Gopalan Nair v. Thevi Amma Thankamm	(Jan) 23	Mudathamoolle Sankappa v. State of Kerala	(April) 120
Gopala Panikkar v. State of Kerala	(Jan) 29	Muthukrishnan P. v. Modern Woodcrafts Employees' Union	(Oct) 288
Harihara Iyer v. Augusthi Devasia	(Aug) 237 (FB)	Mytheen Pacha Rowther Masoodu Sahib v. Madhavan Pillai Kunju Pillai	(Oct) 259
Ittyanath Madathil Madhavi v. Sree Rama Varma	(Sep) 256	Narayanan Namboodiri v. Appukutty Nair	(Feb) 34
		Narayanan S. v. Kannamma Bhargavi	(April) 126 (FB)
		Narayani Amma v. Bhaskaran Pillai	(July) 214
		Neelakanta Iyer v. Ramakrishna Iyer	(Jan) 31
		Parameswara Moothar v. Bala-meenakshi	(April) 103
		Paul v. Cheeran Narayanan	(Aug) 232
		Pazhanimala K. C. v. State of Kerala	(May) 154 (FB)
		Ponnamma Pillai Indra Pillai v. Padmanabhan Channar Kesavan Channer Kesavabhavanam	(June) 163 (FB)

Punnen Thomas V. v. State of Kerala (Mar) 81 (FB)	Thadikulangara Pylee's son Pathrose v. Ayyazhiveettil Lakshmi Amma's son Kuttan (June) 186
Raja Oil Mills, Chovva, Cannanore v. Union of India (June) 176	Thampi D. S. v. Charles D'Cruz John D'Cruz (Jan) 19
Raman Unnithan R. v. State of Kerala (Sep) 243 (FB)	Thanuvan Appukuttan v. P. N. Gopala Pillai (June) 183
Ramavarama Raja E. v. State of Kerala (Dec) 317 (FB)	Thomas M. A. v. P. J. Abraham (May) 146
Sivaraman Nair v. Gopala Menon (Sep) 246	Thomman E. A. v. Regional Transport Officer, Ernakulam (May) 130
Sreedharan T. K. v. P. S. Job (Mar) 75	Thoppil Sankaranarayana Panicker v. Achuthankutty Nair (June) 188
Srinivasan K. A. V. Thomas & Co. Ltd. Alleppey v. Commissioner of Income-tax, Kerala, Ernakulam (Nov) 300	Trinity Pharmaceuticals (India) Pvt. Ltd., Trichur v. Board of Revenue (Excise) Trivandrum (April) 124
State v. Gopala Pillai Sadasivan Pillai (Sep) 250	Unitted Mercantile Co. (P) Ltd. Calicut v. Commissioner of Income Tax, Kerala (Aug) 227
State of Kerala In re (April) 111	Yalia Veettil Komappan v. Elamankandy Kinnattumkara Karthiayayini (July) 203
State of Kerala v. Annam (Feb) 38	Valsala Amma R. v. Commissioner of Gift-tax, Kerala (Sep) 252
State of Kerala v. C. K. Assainar (May) 151	Vareed v. Mary (April) 103 (FB)
State of Kerala v. Mahadeva Iyer Venkita Subramania Iyer (Jan) 8	Varkey K. O. v. State of Kerala (June) 191
State of Kerala v. Mariamma Abraham (Oct) 265	Velliyottummel Sooppi v. Nadukandy Moossa (July) 222
State of Kerala v. New Dholaru Steamships Ltd. (Dec) 308	Venugopala Varma Rajah V. Kolengode, Palghat v. Controller of Estate Duty Kerala, Ernakulam (Nov) 304
Stella Pereira Blaizue Pereira v. Adima Abdul Latheef (Oct) 286	
Subash Chandra Das V. v. Inspector of Post Offices, Trivandrum (Sep) 244	

SUBJECT INDEX

Carriage of Goods by Sea Act (26 of 1925), Schedule, Art. 3, Para. 6, Cl. 3—Calculation of one year—Starting point (Dec) 308

Central Sales Tax Act (74 of 1956)
See under Sales Tax.

Civil Procedure Code (5 of 1908), Pre—Interpretation of Statutes—Deeming provisions—Inclusive definition, scope of—See Tenancy Laws—Kerala Land Reforms Act, 1963 (1 of 1964), S. 31 (Jan) 11 (FB)

—**Pre.**—Interpretation of Statutes—Repeal and supersession — See Kerala Rice Paddy (Procurement by Levy) Order (1966) (Feb) 38G (FB)

—**Pre.**—Interpretation of Statutes—Intention of Legislature to be gathered from words used — Language clear, unambiguous and admitting of one meaning only — There is no scope for judicial interpretation — But where apparent meaning leads to injustice, absurdity or meaningless discrimination, Courts should endeavour to discover true meaning which would avoid these results (June) 16SE (FB)

Civil P. C. (contd.)

—**Pre.**— Interpretation of Statutes — Unambiguous statute—Hardship no consideration not to give effect to statute (Aug) 234B (FB)

—**Pre.**—Interpretation of Statutes—Meaning of words—Doubt about—Sense in which words harmonise with subject and object of enactment should be taken (Oct) 230C

—**Pre.**—Maxims—"Audi alteram partem"—Quasi judicial proceedings to set aside sale—Maxim is applicable—See Travancore Revenue Recovery Act (Trav. Act 1 of 1968 ME), S. 50 (Oct) 280A

—**S. 2 (2)** —Suit for accounts of dissolved partnership—Dismissal of suit as withdrawn by plaintiff under O. 23, R. 1 was not a decree within S. 2 (2) — See Civil P. C. (1908), O. 23, R. 1 (Mar) 78

—**S. 2 (2), (9)**—Decision on constitutional validity of a provision as a preliminary point — It is preliminary judgment and appealable—See Kerala High Court Act (1959-66), S. 5 (1) (Feb) 33A (FB)

Civil P. C. (contd.)

—S. 11, *Expl. 6*—Identity of parties—Suit in which one person is authorised to represent others—Such others are parties to litigation—Decision is binding on all whom such person represented in the suit in a subsequent suit unless former decision can be shown as vitiated under S. 44, Evidence Act—If however they were not in truth represented then fraud or collusion need not be proved—How far bona fide of former litigation can be presumed (Jan) 26A

—S. 11—S. 31, T. C. Nayar Act does not say who can obtain a decree against a tarwad—Section 31 concerned with decrees binding on tarwad—If and when such decree would operate as *res judicata*—See Travancore Nayar Act (2 of 1100 M.E.), S. 31 (Jan) 26B

—S. 47, and O. 21, R. 36—Delivery of symbolical possession to decree-holder in execution—Suit for recovery of possession of property on the basis of execution sale maintainable (Apr) 121A

—S. 52—Principle of 'substantial representation'—Requisite for application of (May) 149

—Ss. 65, 68 and O. 21, Rr. 95, 96—Sale of property in revenue recovery proceedings—Confirmation of sale—Though purchaser's title becomes perfected only on issue of sale certificate, by virtue of S. 65 property is to be deemed to have vested in purchaser from date of sale—Vesting of property is made to relate back to date of sale even when sale is held by collector under rules framed by local Government under S. 68—Hence purchaser is entitled to profits of property from date of sale—Civil P. C. is not made expressly inapplicable to sales under Revenue Recovery Act—All the same even under that Act it is to be presumed that purchaser gets title to property from date of sale (Oct) 263A

—S. 68—Sale of property in Revenue Recovery proceedings—Vesting of property with purchaser relates back to date of sale—See Civil P. C. (1908), S. 65 (Oct) 263

—S. 80—Scope—Waiver of notice—Effect—*Jus tertii*—Private party cannot plead as defence—Principle stated (Oct) 280B

—S. 96—Suit for accounts of dissolved partnership withdrawn by plaintiff—Dismissal of suit as withdrawn held was not a decree—There being no decree, no appeal lay under S. 93—See Civil Procedure Code (5 of 1908), O. 23, R. 1 (Mar) 78

—Ss. 96, 107—Duty of appellate Court to consider evidence independently (Dec) 316

—S. 97—Suit for redemption—Preliminary decree awarding future mesne profits

Civil P. C. (contd.)

from date of suit instead of from date of deposit of mortgage amount—Appeal from final decree—Preliminary decree has become final and cannot be challenged in the appeal (June) 181B

—Ss. 100-101—Concurrent findings of fact—No interference (Jan) 9A

—Ss. 100-101, Order 6, Rule 17—Suit for redemption and possession of mortgaged property—Amendment seeking to convert it into one for possession on basis of title—Cannot be allowed in second appeal (Jan) 19

—Ss. 100-101—Easements Act (1882), S. 56—Question whether certain licence is transferable—Not a pure question of law—Cannot be permitted to be raised for the first time in second appeal (Jan) 23A

—Ss. 100-101—Question of adverse possession—It is a mixed question of fact and law—High Court can interfere if the decision of the lower Courts on this question is erroneous (July) 222B

—S. 107—Duty of appellate Court to consider evidence independently—See Civil P. C. (1908), S. 96 (Dec) 316

—S. 115—Houses and Rents—Kerala Buildings (Lease and Rent Control) Act (2 of 1965), Ss. 20 (1) and 18 (5)—Revision—High Court has jurisdiction under S. 115, C. P. C. to revise order passed by District Court under S. 20 (1) of Kerala Act. (1960) Ker L T 1248, Overruled (Apr) 103 (FB)

—S. 144—Suit for recovery of property on deposit of certain amount—Amount deposited not withdrawn by defendant—Suit decreed—Decree executed pending appeal—Decree reversed in appeal—Application by defendant under S. 144 for possession and mesne profits—Plaintiff claiming that he should be given credit for interest on deposit in assessing his liability for mesne profits—Held, claim was not tenable. AIR 1954 All 119, Dissent. from. 1966 Ker L J 844, Overruled (Jan) 31

—S. 151—Amendment of decree under—Starting point of limitation—See Limitation Act (1908), Art. 156 (June) 183

—S. 151—Prayer for recovery of possession deleted to bring suit within jurisdiction—Plaintiff held entitled to return of court-fee paid prior to re-presentation of plaint—See Court-fees and Suits Valuations—Court-fees Act (1870), S. 13 (July) 203

—S. 152—Amendment of decree under—Starting point for limitation—See Limitation Act (1908), Art. 156 (June) 183

—O. 1, R. 1—Person joining in one suit under, are not necessarily persons whose substantive right is joint and not several—

Civil P. C. (contd.)*See* Limitation Act (1908), S. 7

(June) 163B (FB)
 —O. 1, R. 1—Proceedings for setting aside sale in Revenue Recovery proceedings—Purchasers should be made party—*See* Travancore Revenue Recovery Act (Trav. Act 1 of 1968 ME), S. 50 (Oct) 280A

—O. 1, R. 10—Suit for accounts of dissolved partnership—Withdrawal of suit by plaintiff—No transposition of parties possible as there was no finding of Court that there was accounting relationship—*See* Civil P. C. (1908), O. 23, R. 1 (Mar) 78

—O. 6, R. 17—Suit for redemption and possession of mortgaged property—Amendment seeking to convert it into one for possession on basis of title—Cannot be allowed in second appeal—*See* Civil P. C. (1908), Ss. 100-101 (Jan) 19

—O. 6, R. 17, O. 7, R. 10, O. 23, R. 1—Amendment if allowed, suit falling out of jurisdiction of Court—Court should allow amendment and then return plaint for presentation to proper Court. AIR 1928 Mad 400 and AIR 1957 Andh Pra 10 and (1959) 1 Mad L J 307 and AIR 1953 Nag 273, Dissented from (Mar) 75

—O. 7, R. 2—Claim for future mesne profits specifying precise amount—Plaintiff not entitled to more than amount so specified in pleadings (June) 181A

—O. 7, R. 10—Amendment if allowed, suit falling out of jurisdiction of Court—Court should allow amendment and then return the plaint for presentation to proper Court—*See* Civil P. C. (1908), O. 6, R. 17 (Mar) 75

—O. 7, R. 10—Under valuation of plaint—Plaint returned—Appeal—Plaintiff directed to delete prayer for possession to bring suit within jurisdiction—Re-presentation of plaint after deletion of prayer—Plaintiff entitled to refund of court-fee already paid—*See* Court-fees and Suits Valuations—Court-fees Act (1870), S. 13 (July) 203

—O. 9, R. 8—Suit for accounts of dissolved partnership—Withdrawal of suit—Dismissal of suit as withdrawn—It stood on same footing as dismissal under O. 9, R. 8—*See* Civil P. C. (1908), O. 23, R. 1 (Mar) 78

—O. 20, R. 7—Date of decree—Decree amended—Amendment relates back to the date of decree which is date on which the judgment is pronounced—*See* Limitation Act (1908), Art. 156 (June) 183

—O. 21, R. 1(2)—Decree awarding interest on decretal amount until payment—Deposit of decretal amount in Court without notice to decree-holder—Interest does not cease to run from date of deposit. AIR 1939 Nag 191, Dissented from (Jan) 8

Civil P. C. (contd.)

—O. 21, R. 32 (1)—Applicability—Is applicable to cases of decrees allowing preventive injunction (Aug) 232

—O. 21, R. 35—Symbolical possession and limitation—*See* Limitation Act (1908), Article 138 (Apr) 121B

—O. 21, R. 36—Delivery of symbolical possession to decree-holder—Suit for recovery of possession of property on the basis of executions sale maintainable—*See* Civil P. C. (1908), S. 47 (Apr) 121A

—O. 21, R. 63—Proceedings for setting aside sale under Revenue Recovery Act—Purchasers should be made party—*See* Travancore Revenue Recovery Act (Trav. Act 1 of 1968 ME), S. 50 (Oct) 280A

—O. 21, R. 95—Sale of property in revenue recovery proceedings—Property vests in purchaser from date of sale—Purchaser entitled to profits from date of sale—*See* Civil P. C. (1908), S. 65 (Oct) 263A

—O. 21, R. 96—Sale of property in revenue recovery proceedings—Property vests in purchaser from date of sale—Purchaser entitled to profits from date of sale—*See* Civil P. C. (1908), S. 65 (Oct) 263A

—O. 22, R. 3—Application by legal representative under sub-r. (1) made within time—Duty of Court (Oct) 286

—O. 23, R. 1—Amendment if allowed, suit falling out of jurisdiction of Court—Court should allow amendment and then return the plaint for presentation to proper Court—*See* Civil P. C. (1908), O. 6, R. 17 (Mar) 75

—O. 23, R. 1, Ss. 2 (2), 96, O. 1, R. 10 and O. 9, R. 8—Suit for accounts of a dissolved partnership—Defendant denying partnership and accounting relationship between himself and plaintiff—Suit withdrawn by plaintiff under O. 23, R. 1 (1)—Dismissal of suit as withdrawn held was not a decree as defined by S. 2 (2)—It stood on same footing as dismissal under O. 9, R. 8—There being no decree no appeal lay under S. 96—There being no finding of Court that there was accounting relationship between parties there could be no question of transposition of parties (Mar) 78

—O. 32, R. 4 (1)—Suit by next friend—Person who has no interest in the benefit of minors cannot maintain (July) 214A

—O. 47, R. 1—'Error apparent on the face of the record'—Not limited to errors of fact—Extends to errors of law as well—Court-fees Act (1870), S. 15—Income-tax Act (1922), S. 35 (Provisions in *pari materia*) (June) 186A

—O. 47, R. 1—'Error apparent on the face of the record'—Error demonstrated by binding decision—Immaterial whether such decision was before or after decision in which error occurred (June) 186B

CIVIL SERVICES

—**Kerala Civil Services (Classification, Control and Appeal) Rules (1960), R. 60** — Employee has vested right to continue in service till the age of 55 reckoned on basis of actual date of birth — *See* Constitution of India, Art. 309 (Dec) 317 (FB)

—**Travancore Service Regulations, Regn. 352-F (c)**—Proof of age of employee — *See* Constitution of India, Art. 309 (Dec) 317 (FB)

Cochin Transfer of Property Act (1111 ME), S. 56 (4) (b) — Repeal of by Part B States (Laws) Act — Charge created under repealed Act continues — *See* Debt Laws — Kerala Agriculturists Debt Relief Act (31 of 1958), S. 2 (c) (vii) (Aug) 234A (FB)

Constitution of India, Art. 13 (2) — Kerala Education Rules (1959), Rr. 6, 7, 8—Are void to the extent they contravene fundamental rights under Art. 30 — *See* Constitution of India, Art. 30 (June) 191A

—**Art. 14**—Notification issued under Cl. 3 of Kerala Rice and Paddy Levy Order, 1966 is violative of the rule of equal protection in the Article—*See* Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 3 (Feb) 38N (FB)

—**Art. 14** — Classification of cultivators under Cl. 3 of Kerala Rice and Paddy Levy Order, 1966 is not unreasonable—*See* Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 3 (Feb) 38O (FB)

—**Art. 14**—Discretion given to administrative officers under Cl. 6 of Kerala Rice and Paddy Levy Order, 1966 is not unguided and arbitrary—*See* Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 13 (Feb) 38P (FB)

—**Art. 14**—Classification of stock-holders under Cl. (4) of Kerala Paddy and Rice Declaration of Stocks Order, 1966—Not unreasonable—*See* Kerala Paddy and Rice (Declaration and Requisitioning of Stocks) Order (1966), Cl. 4 (Feb) 38R (FB)

—**Art. 14**—Absence of provision to oblige officer to take excess paddy does not result in discrimination — *See* Kerala Paddy and Rice (Declaration and Requisitioning of Stocks) Order (1966), Cl. 3 (1) (Feb) 38T (FB)

—**Arts. 14, 39(b) and (c), 246, Sch. 7, Entry 86** —**Wealth Tax Act (1957), S. 3, Sch. (as amended by Finance Act 10 of 1965) Part I, Para. A, Cl. (c), read with Rr. 1 and 2 of Para. B**—Imposition of additional wealth-tax on capital assets — Classification based on population of different areas is rational — Not violative of Art. 14 (Mar) 69

—**Art. 14**—Government, not bound by law to call tenders, debarring certain persons

Constitution of India (contd.) — from submitting tender—No discrimination — *See* Constitution of India, Art. 226

(Mar) 81 (FB)
—**Arts. 14, 226** — Kerala Motor Vehicles (Taxation of Passengers and Goods) Act (25 of 1963), Ss. 3, 18 — Constitutional validity of Act — Provisions alleged to be discriminatory on ground that tax payable by passenger or owner of goods must depend not on the distance that he travelled or the distance for which the goods were carried out but on total distance that vehicle travelled a day — Discrimination affecting passengers or owners of goods but not writ petitioners who are operators — Petitioners, held not entitled to raise such a point — Provisions, held to be not discriminatory (May) 130B

—**Art. 19**—Tax laws are not beyond clutches of Art. 19—Mere imposition of tax by itself does not infringe Art. 19—There must have been crippling of trade or business — Kerala Motor Vehicles (Taxation of Passengers and Goods) Act (25 of 1963), Pre.—Act has not imposed any restriction on operators — They have been utilised merely for facilitating collection of tax imposed on passengers and owners of goods—Operators cannot rely on Art. 19 to challenge validity of the Act (May) 130C

—**Arts. 30, 13 (2)**—Kerala Education Rules (1959), Rr. 6, 7, 8—Rules are void to extent they contravene fundamental rights under Art. 30—Not applicable to educational institutions established and administered by minority (June) 191A

—**Art. 30** — Fundamental right under Art. 30—Waiver of, when established—Evidence Act (1872), S. 115 (June) 191B

—**Art. 30**—Whether the future members of a minority community as a unit, derive the fundamental right under Art. 30 from its dead members by succession or by inheritance (Quaere) (June) 191C

—**Art. 30**—“Minority”—Church of South India represents a denomination among Christians and is a ‘minority’ within meaning of Art. 30 (June) 191D

—**Art. 31 (2)** — Cl. 7 of Kerala Rice and Paddy (Procurement by Levy) Order, 1966, does not violate Art. 31 (2) — *See* Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 7 (Feb) 38C (FB)

—**Art. 31 (2)** — Kerala Rice and Paddy Levy Order 1966 does not transgress limits of delegation conceded to State — *See* Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 7 (Feb) 38E (FB)

—**Art. 31 (2)**—Compensation for rice and paddy requisitioned at controlled price under Cl. 4 of Kerala Paddy and Rice De-

Constitution of India (contd.)

Declaration and Requisitioning of Stocks Order 1966, is "just equivalent"—See Kerala Paddy and Rice (Declaration and Requisitioning of Stocks) Order (1966), Cl. 4

(Feb) 38S (FB)

—*Art. 39 (b) and (c)* — Imposition of additional wealth tax on capital assets—Classification based on population of different areas is rational—Not violative of Art. 14 — See Constitution of India, Art. 14 (Mar) 69

—*Arts. 226, 14* — Government, not bound by law to call tenders, debarring certain person from submitting tenders — No infringement of his civil rights—Government can refuse to deal with any person without giving reason or for any reason it thinks fit — Principle of audi alteram partem is not attracted (Mar) 81 (FB)

—*Art. 226*—Writ—Who can apply — Provisions of Kerala Motor Vehicles (Taxation on Passengers and Goods) Act challenged as discriminatory affecting passengers and owners of goods — Petitioners who were operators held not entitled to raise such a point—See Constitution of India, Art. 14

(May) 130B

—*Art. 226* — Kerala Paddy (Restriction on Milling) Order, 1967—Writ petition, by rice mill owners carrying on hulling of paddy, challenging validity of Order 1967 — Maintainability — "Person aggrieved" — Means person prejudicially affected

(May) 154A (FB)

—*Art. 226* — Writ petition challenging validity of Kerala Paddy (Restriction on Milling) Order, 1967 — Pleadings—Court is not restricted to pleadings of State—Fact that a particular object is stated in counter affidavit will compel the High Court to examine validity of impugned order only in that background

(May) 154C (FB)

—*Art. 226* — Other remedy open — Rice Milling Industry (Regulation) Act (21 of 1958), Ss. 7 and 12—Order by licensing authority staying working of a certain rice mill until further orders—Consequential direction for discontinuing electric supply — First order not an interim order — No power vested in State Government to stay operation of that order—Writ petition, challenging order of licensing authority and consequential order discontinuing electric supply, therefore maintainable—Petition cannot be dismissed on the ground that it was open to petitioner to move State Government for vacating it. O. P. No. 3956 of 1967 (Kerala), Reversed

(Sep) 213 (FB)

—*Art. 226*—Natural justice—Audi alteram partem — Proceedings for setting aside sale — Collateral and quasi judicial proceeding

Constitution of India (contd.)

—Maxim "audi alteram partem" applies — See Travancore Revenue Recovery Act (Trav. Act 1 of 1068 ME), S. 50 (Oct) 280A

—*Art. 226*—Tribunal's conclusion on question of severity of punishment — No interference when there in some evidence to justify it—See Industrial Disputes Act (1947), S. 15 (Oct) 288B

—*Art. 226* — Quantum of compensation when dismissal is held illegal—Interference by High Court—See Industrial Disputes Act (1947), S. 15 (Oct) 288D

—*Art. 226* — Disparity between school register and service register regarding date of birth — Variation of—Principles of natural justice have to be observed — See Constitution of India, Art. 309 (Dec) 317 (FB)

—*Arts. 245 and 246, Sch. 7, List. I, Item 52 and List 3 Item 33* — Kerala Paddy (Restriction on Milling Order, 1967, Pre. — Rice Milling Industry (Regulation) Act (21 of 1958)—Order issued by State Government as delegate of Central Government — Order whether a piece of colourable legislation — Whether any conflict between Parliament and State Legislature—Essential Commodities Act (1955), S. 5

(May) 154D (FB)

—*Art. 246* — Imposition of additional wealth tax on capital assets — Validity—See Constitution of India, Art. 14 (Mar) 69

—*Art. 246, Sch. 7, List 2, Item 56* — Kerala Motor Vehicles (Taxation of Passengers and Goods) Act (25 of 1963), Pre., S. 3—Act imposes tax on passengers and goods and not on operators or on their income — It is within the competence of State Legislature (May) 130A

—*Art. 246*—Order issued by State Government as delegate of Central Government — Impugned order did not exceed its authority — Impugned order is also not a piece of colourable legislation — See Constitution of India, Art. 245 (May) 154D (FB)

—*Art. 254 (2)* — Repugnancy to existing Central law — Kerala Panchayats (Trial of Offences by Magistrates) Rules (1964), R. 3 as it stood prior to 14-12-67 — Not void on ground of repugnancy to S. 190, Criminal P. C. (Apr) 111A

—*Art. 265*—Licence fee for soaking of coconut husks in pits in one's property — Not valid—See Municipalities — Kerala Municipal Corporation Act (13 of 1964), S. 299

(Apr) 99

—*Art. 265* — Licence fee for medicinal shop—Demand by Municipality — Mandatory procedure laid down in Ss. 91 to 151 of Kerala Municipal Act 1950 not followed — Levy in nature of tax not justified — See

Constitution of India (contd.)

Municipalities—Kerala Municipalities Act, 1960 (14 of 1961), S. 284 (Apr) 109 (FB)
 —*Art. 265*—Kerala Motor Vehicles (Taxation of Passengers and Goods) Act (25 of 1963), Pre., Ss. 3, 43 and 44—Taxing statute must itself provide for payment and collection of tax from such persons as are made liable by the impost — Provision for collection of tax held to be unsatisfactory (May) 130D
 —*Art. 265* — Nature of impost under S. 3 (2) of the Produce Cess Act, is a tax by way of excise duty—*See* Produce Cess Act (1966), S. 3 (2) (June) 176
 —*Art. 270*—“Income-tax” and “super-tax” — Meaning — *See* Finance Act (1934), S. 2 (a) and (b) (Nov) 300
 —*Art. 271*—“Income-tax” and “super-tax” — Meaning — *See* Finance Act (1964), S. 2 (a) and (b) (Nov) 300
 —*Art. 272*—Nature of cess imposed under S. 3 (2) is a tax by way of excise duty — *See* Produce Cess Act (1966), S. 3 (2) (June) 176
 —*Part XIII, (Arts. 301-307), Arts. 301 and 304(b)*—Scope—Kerala Motor Vehicles (Taxation of Passengers and Goods) Act (25 of 1963), Pre., S. 3—Burden imposed by tax held to be reasonable (May) 130E
 —*Art. 304 (b)*—Scope — Mere regulatory measure will not attract Part 13 of the Constitution—There can be no question of violation of Art. 301 and therefore no necessity to satisfy Art. 304 (b)—*See* Constitution of India, Part 13, Art. 301 (May) 130E
 —*Arts. 309, 311 and 226* — Kerala Civil Services (Classification, Control and Appeal) Rules, 1960, Rule 60 — Travancore Service Regulations, Regn. 352-F (c)—Government employee — Date of birth accepted and entered in service register with remark ‘verified with horoscope and found correct’ — Correction in date of birth on basis of school register without giving opportunity to employer to show cause—State asserting that there is no rule requiring Government to give such opportunity — *Held*, in view of Rule 60, employee had a vested right to continue in service till the age of 55 reckoned on basis of actual date of birth — If date was to be altered it could only be on the basis of enquiry made in consonance with principles of natural justice as specified in A I R 1967 S C 1269 — Rule that a party to whose prejudice an order is intended to be passed is entitled to a hearing applies alike to judicial tribunals and bodies of persons invested with authority to adjudicate upon matters involving civil consequences : (Dec) 317 (FB)
 —*Art. 311* — Probationer continuing after expiry of period of probation — He will

Constitution of India (contd.)

continue as probationer — Removal from service of such probationer on grounds of unsuitability does not amount to alteration of service condition — *See* Industrial Disputes Act (14 of 1947), S. 33 (Dec) 313
 —*Art. 311* — Date of birth accepted and entered in service register according to horoscope — Correction in date of birth on basis of school register — Principles of natural justice have to be observed — *See* Constitution of India, Art. 309 (Dec) 317 (FB)
 —*Art. 311 (2)* — Scope — Showing cause against penalty proposed under Art. 311 (2) — Pleas open to Government servant : 1964 Ker L T 180, *Overruled* (Sep) 244
 —*Sch. 7, List 1, Item 52 and List 3, Item 33* — In passing Kerala Paddy (Restriction of Milling) Order, 1967, as delegate of Central Government, Kerala Government did not exceed its authority — It is an act of the Central Government and hence no question of any conflict between Parliament and State Legislature can arise — *See* Constitution of India, Art. 245 (May) 154D (FB)
 —*Sch. 7, List 1, Entry 84* — Cess imposed under S. 3 (2) of Produce Cess Act — Levy comes under the entry — *See* Produce Cess Act (1966), S. 3 (2) (June) 176
 —*Sch. 7, List 2, Entry 14* — Cess imposed under S. 3 (2) of Produce Cess Act—Nature of — *See* Produce Cess Act (1966), S. 3 (2) (June) 176
 —*Sch. 7, List 2, Item 56*—Kerala Act 25 of 1963 is within the competence of State Legislature — *See* Constitution of India, Art. 246 (May) 130A
 —*Sch. 7, List 3, Item 33*—In passing Kerala Paddy (Restriction of Milling) Order, 1967, as a delegate of Central Government Kerala Government did not exceed its authority — It is an act of the Central Government and hence no question of any conflict between Parliament and State Legislature can arise — *See* Constitution of India, Art. 245 (May) 154D (FB)
 —*Sch. 7, Entry 86* — Imposition of additional wealth tax on capital assets—Validity — *See* Constitution of India, Art. 14 (March) 69
Contract Act (9 of 1872), S. 70—Suit for compensation for use and occupation—Plaintiff purchaser of property allowed the defendants to continue their residence in building until other occupation is secured by them — No indication in evidence that plaintiff had done so gratuitously—Claim based on agreement to pay rent or other remuneration—Agreement not proved — *Held*, even in absence of agreement plaintiff was entitled to remuneration for use and occupation—It

Contract Act (contd.)

was for defendants to prove by satisfactory evidence that they were allowed to occupy building free of any obligation to pay rent (Oct) 263B
—S. 188 — Possession of care-taker — It is possession of principal (July) 214C

Court-fees Act (7 of 1870)

See under Court-fees and Suits Valuations.

COURT-FEES AND SUITS VALUATIONS

—Court-fees Act (7 of 1870), S. 13 — Return of plaint on ground of under-valuation of claim — Appeal—Plaintiff directed to delete prayer for recovery of building for purpose of bringing suit within jurisdiction of Munsiff Court—Presentation of plaint after deletion of prayer — Plaintiff entitled in the interest of justice to court-fee already paid (July) 203
—S. 15 — Error apparent on the face of record — Not limited to errors of fact — See Civil P. C. (1908), O. 47, R. 1 (June) 186A
—Kerala Court Fees and Suits Valuation Act (1959) (10 of 1960), S. 55 — Application for grant of Letters of Administration—Should be accompanied by affidavit of valuation of estate in form set forth under Part I of Schedule III — See Succession Act (1925), S. 278 (Sep) 256B
—Sch. 3, Part I—Application for grant of Letters of Administration — Should be accompanied by affidavit of valuation of estate in form set forth in Part I of Schedule III — See Succession Act (1925), S. 278 (Sep) 256B

Criminal Procedure Code (5 of 1898), S. 4 (1)

(h)—Complaint to Magistrate—See Criminal P. C. (1898), S. 190 (Apr) 97
—Ss. 4 (1) (h), 190 (1) (a) & (c), 191—Taking cognizance on invalid complaint — Can be treated as taking cognizance on information — Sub-Divisional Magistrate taking cognizance of panchayat offence on complaint of Executive Officer and trying case himself under bona fide belief that he had such power—Cognizance cannot be said to have been taken under S. 190 (1) (c) (Apr) 111D
—Ss. 4 (1) and (2) and 523 — Expression “otherwise dealt with” in S. 5 — Includes provisions for disposal of property under Chapter 43 of the Code — Seizure of goods by Police for contravention of Kerala Rice (Regulation of Movement) Order (1966)—Offender produced before Magistrate and goods retained for production before Collector—Magistrate cannot direct production

Criminal P. C. (contd.)

of goods before him under S. 523 in view of Clause 6 of Order (as amended on 22-2-1968) (May) 151A
—S. 5 (2) — Applicability of Code to offences under the Panchayat Act — See Constitution of India, Art. 254 (2) (Apr) 111A
—S. 28—Powers of Magistrates—See Panchayats — Kerala Panchayats Act (32 of 1960), S. 119 (Apr) 111B
—S. 29 (2)—Law creating special Courts for trial of offences — Not repugnant to the provisions of the Cr. P. Code — It is in accordance with provisions of S. 29 (2) — See Constitution of India, Art. 254 (2) (Apr) 111A
—S. 36—Powers of Magistrates—See Panchayats — Kerala Panchayats Act (32 of 1960), S. 119 (Apr) 111B
—S. 37—Powers of Magistrates—See Panchayats — Kerala Panchayats Act (32 of 1960), S. 119 (Apr) 111B
—S. 114 — Execution of bond under Section 117 (3)—No need of arrest under S. 114 pending inquiry—See Criminal P. C. (1898), S. 117 (3) (Jun) 188B
—Ss. 117 (3) and 114 — Execution of bond under S. 117 (3) — No need of arrest under S. 114 pending enquiry (Jun) 188B
—Ss. 145 (4) and 146 (2) — Magistrate has power to appoint receiver under S. 145 (4). AIR 1929 Lah 223 and 1933 Mad W N 917, Dissented from (Jun) 188A
—S. 146 (2)—Powers of receiver appointed under are different from powers of receiver appointed under S. 145 (4)—See Criminal P. C. (1898), S. 145 (4) (Jun) 188A
—S. 156 (3) — Complaint sent to police, by Magistrate, for investigation under the section — Objection to the case being conducted by the Public Prosecutor on submission of charge-sheet by police cannot be taken—See Criminal P. C. (1898), S. 190 (Apr) 97
—Ss. 190, 156 (3), 4 (1) (h)—Complaint to Magistrate — Magistrate sending it for investigation under S. 156 (3) — No objection can be taken to the case being conducted by Public Prosecutor on submission of charge-sheet by police. AIR 1967 All 468 and 1968 Ker L T 57, held no longer good law in view of AIR 1964 S C 1541 (Apr) 97
—S. 190—R. 3 of Kerla Panchayats (Trial of Offences by Magistrates) Rules, 1964 before amendment — Not void on ground of repugnancy to this section — See Constitution of India, Art. 254 (2) (Apr) 111A
—S. 190—Taking cognizance of offence—Meaning of—Magistrate having no power to try accused or to commit him for trial is

Criminal P. C. (contd.)

not competent to take cognizance — A I R 1952 All 873 and AIR 1967 Pat 416 and AIR 1959 Bom 437, **Diss. from** (Apr) 111E

—S. 190 (1) (a) & (c)—Taking cognizance on invalid complaint — Can be treated as taking cognizance on information — *See* Criminal P. C. (1898), S. 4(1) (h) (Apr) 111D

—S. 190 (1) (b)—First information against seven named and twelve unnamed persons—Police, after investigation, filing charge sheet only against four and mentioning other three named persons as prosecution witnesses—Magistrate on perusal of records and after hearing arguments directing the latter to be arrayed as accused and issuing summonses against them — Held that the order did not amount to interference with police investigation—The order was squarely within cl. (b) of S. 190 (1) and could not be impugned as being without jurisdiction (Jan) 29A

—S. 190 (1) (c) — Power to take cognizance of an offence — Not one of the ordinary powers of a Magistrate of the First, Second or Third Class but it is an ordinary power of Sub-Divisional and District Magistrate — *See* Panchayats — Kerala Panchayats Act (32 of 1960), S. 119 (Apr) 111B

—S. 190 (1) (c) — Sub-Divisional Magistrate cannot take cognizance of a panchayat offence, under this section — *See* Panchayats — Kerala Panchayats Act (32 of 1960), S. 119 (Apr) 111F

—S. 191 — Taking cognizance on invalid complaint — Effect — *See* Criminal P. C. (1898), S. 4 (1) (b) (Apr) 111D

—S. 192—Transfer of case—To whom can be made — Transfer does not confer power to try when it is wanting (Apr) 111C

—S. 209 (1) — Applicability — Provision does not enable a Magistrate to discharge accused regarding some of the offences and try them for others—He can either discharge the accused or try them or send them for trial before a Magistrate of competent jurisdiction (Mar) 68

—S. 422—Notice to accused — Service of — Procedure : AIR 1954 Nag 231 and (1965) 31 Cut L T 37, **held not good law** in view of AIR 1960 S C 756 (Sep) 250

—Ss. 435, 438 and 439 — Revision — No legal bar to a party coming direct to High Court without first moving Sessions Judge or District Magistrate — AIR 1967 Ker 280, **Overruled** ; A I R 1956 Andh 97, **Dissented from** (Apr) 126 (FB)

—S. 438 — Revision — Bar. *See* Criminal P. C. (1898), S. 435 (Apr) 126 (FB)

—S. 439—Revision—Power of High Court — Extent — *See* Criminal P. C. (1898), S. 435 (Apr) 126 (FB)

Criminal P. C. (contd.)

—S. 488 — Enhancement of maintenance allowance can take effect from date of application—*See* Criminal P. C. (1898), S. 489 (Apr) 108

—Ss. 489, 488—Enhancement of maintenance allowance — Can take effect from date of application—AIR 1949 Cal 584, **Dissented from** (Apr) 108

—S. 523—Seizure of goods by Police for contravention of Kerala Rice (Regulation of Movements) Order, 1966 — Goods retained for production before Collector and offender produced before Magistrate — Magistrate cannot direct production of goods before him under the section in view of Cl. 6 of the order (as amended on 22-2-68)—*See* Criminal P. C. (1898), S. 5 (1) (May) 151A

—Schs. II, III & IV—Powers of Magistrates — *See* Panchayats — Kerala Panchayats Act (32 of 1960), S. 119 (Apr) 111B

DEBT LAWS

—Kerala Agriculturists Debt Relief Act (31 of 1958), S. 2 (c) (vii) — Applicability—Sale of immovable property in Cochin State prior to 1-4-1951—Repeal of Cochin Transfer of Property Act by Part B States (Laws) Act—Effect — Charge under Cochin Act is preserved — Exemption under S. 2 (c) (vii) does not apply (Aug) 234A(FB)

—S. 2 (c) (vii)—Liability for unpaid purchase money prior to 1-4-1951 — Not an exempted 'debt' under S. 2 (c) (vii) (Aug) 237 (FB)

Easements Act (5 of 1882), S. 52 — Lease or licence—Absence of document — Surrounding circumstances and intention of parties to be considered — *See* Transfer of Property Act (1882), S. 105 (Feb) 34

—S. 56—Question whether certain licence is transferable—Not a pure question of law — *See* Civil P. C. (1908), Ss. 100-101 (Jan) 23A

—S. 60 — Licensee executing work of permanent character — Licence not surrendered or abandoned—Licence cannot be revoked (Jan) 23B

EDUCATION

—Kerala Education Act (6 of 1959), Ss. 11, 12 (2); 36 — Kerala Education Rules (1959), Rr. 67, 75 and 77 (as amended in 1965)—Disciplinary action against teachers — Rules constituting original authority in Officers (other than Manager of schools)—Rules are void being repugnant to Ss. 11 and 12 (2) (Mar) 91 (FB)

—S. 12 (2) — Disciplinary action against teachers—Rules constituting original autho-

Education—Kerala Education Act (contd.)

rity in Officers (other than Manager of schools)—Rules are void as being repugnant to Ss. 11, 12 (2) — *See* Education — Kerala Education Act (6 of 1959), S. 11

(Mar) 91 (FB)

—S. 36—Disciplinary action against teachers — Rules framed — Rules constituting original authority in Officers (other than Manager of schools) held void as being repugnant to Ss. 11 and 12 — *See* Education — Kerala Education Act (6 of 1959), S. 11

(Mar) 91 (FB)

—Kerala Education Rules (1959), R. 6—Validity of—*See* Constitution of India, Art. 30

(June) 191A

—R. 7—Validity of — *See* Constitution of India, Art. 30

(June) 191A

—R. 8—Validity of — *See* Constitution of India, Art. 30

(June) 191A

—R. 67 (as amended in 1965) — Validity—*See* Education — Kerala Education Act (6 of 1959), S. 11

(Mar) 91 (FB)

—R. 75 (as amended in 1965) — Validity — *See* Education — Kerala Education Act (6 of 1959), S. 11

(Mar) 91 (FB)

—R. 77 (as amended in 1965) — Validity—*See* Education — Kerala Education Act (6 of 1959), S. 11

(Mar) 91 (FB)

Employees' Provident Funds Act (19 of 1952), S. 5 — Amount representing employer's contribution transferred to Provident Fund Commissioner is not a capital expenditure within R. 14 (1) and is permissible deduction under S. 37 (1) — *See* Income-tax Act (1961), S. 37 (1)

(Aug) 227

Essential Commodities Act (10 of 1955), S. 3 (2) (a) and (d)—Kerala Paddy (Restriction on Milling) Order (1967), Pre. — Object—Order falling only under S. 3 (2) (a) and not S. 3 (2) (d) of the Act — No prior concurrence of Central Government — Order held invalid

(May) 154E (FB)

—S. 3 (2) (f) — Kerala Rice and Paddy Levy Order, 1966 is constitutional — *See* Kerala Rice Paddy (Procurement by Levy) Order (1966)

(Feb) 38G (FB)

—S. 3 (2) (f)—S. 3 is not invalid because it did not contain legislated guidance as to the scope and ambit of Govt's powers to make orders under it

(Feb) 38I (FB)

—S. 3 (2) (f)—“Person holding the stock” does not mean that he should have both possession and title — Two-fold idea cannot be imported in definition of “cultivator” in Cl. 2 (b) of Kerala Rice and Paddy (Procurement by Levy) Order (1966)

(Feb) 38J (FB)

—Ss. 3 (2) (f) and 3 (3c)—Kerala Rice and Paddy (Procurement by Levy) Order (1966),

Essential Commodities Act (contd.)

because it deals with cultivators only has not travelled beyond the Act

(Feb) 38K (FB)

—S. 3 (2) (f)—“Stock” of food grains does not mean stock for sale — Kerala Rice and Paddy (Procurement by Levy) Order (1966) is not ultra vires because it directs procurement as soon as paddy is harvested and before requirements of produce are ascertained

(Feb) 38L (FB)

—S. 3 (2) (f)—“Person holding stock” does not postulate holding in quantities in excess of one's requirement — Kerala Rice and Paddy (Procurement by Levy) Order (1966), is not ultra vires

(Feb) 38M (FB)

—S. 3 (2) (f) — Power of officers to order stock-holder to sell specified quantity without inquiry as to stock in his possession under Cl. (4) of Kerala Paddy & Rice Declaration of Stock Order 1966 is not arbitrary — *See* Kerala Paddy and Rice (Declaration and Requisitioning of Stocks) Order (1966), Cl. (4)

(Feb) 38Q (FB)

—S. 3 (2) (f) — Classification of stock-holders under Cl. (4) of Kerala Paddy and Rice Declaration of Stocks Order, 1966 is not unreasonable — *See* Kerala Paddy and Rice (Declaration and Requisitioning of Stocks) Order (1966), Cl. 4

(Feb) 38R (FB)

—S. 3 (3) and (3B) — Kerala Rice and Paddy (Procurement by Levy) Order 1966, is governed by S. 3 (3B) of the Act and not by S. 3 (3) — *See* Kerala Rice and Paddy (Procurement by Levy) Order (1966)

(Feb) 38D (FB)

—S. 3 (3B)—Kerala Rice and Paddy Levy Order 1966 does not transgress limits of delegation conceded to the State — *See* Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 7

(Feb) 38E (FB)

—S. 3 (3B)—Kerala Rice and Paddy Levy Order, 1966 does not ignore direction in the section — *See* Kerala Rice and Paddy (Procurement by Levy) Order, 1966, Cl. 7

(Feb) 38F (FB)

—S. 3 (6) — Laying of order before Parliament is not condition precedent for validity of order — Kerala Rice and Paddy (Procurement by Levy) Order (1966) is not invalid

(Feb) 38H (FB)

—Ss. 3 (6) and 5 (b) — Kerala Paddy (Restriction on Milling) Order, 1967 — Order passed by State Government under delegated powers — Order not laid before both Houses of Parliament, at any time, after it was made — Effect — Violation of S. 3 (6) does not render the order invalid — But it cannot be said that S. 3 (6) is not applicable to an order passed by any authority in exercise of power under S. 5 (b) of the Act

(May) 154B (FB)

Essential Commodities Act (contd.)

—S. 5 — Kerala Paddy (Restriction of Milling) Order (1967) issued by the State Government as a delegate of the Central Government empowered by S. 5 of the Act is an act of the Central Government — No question of conflict between Parliament and State Legislature can arise in the circumstances — *See* Constitution of India, Art. 245 (May) 154D (FB)

—S. 5 (b)—Order passed by State Government under delegated powers — Order not laid before both Houses of Parliament at any time, after it was made — Effect — *See* Essential Commodities Act (1955), S. 3 (6) (May) 154B (FB)

—Ss. 6A to 6D (as amended by Act 25 of 1966) — Kerala Rice (Regulation of Movement) Order (1966) (after its amendment on 22-2-1968) Clause 6 — Interpretation of Clause 6 of Order read with S. 6 of Act (May) 151B

—S. 6C (2) (as amended by Act 25 of 1966)—Magistrate has power to pass an order of forfeiture of seized commodity even when he acquits the accused person—*See* Essential Commodities Act (1955) (as amended by Act 25 of 1966), S. 7 (May) 151C

—Ss. 7 and 6C (2) (as amended by Act 25 of 1966) — Magistrate has the power to pass an order of forfeiture even in a case where he acquits the accused person — The seized commodity is to be returned or its price paid by collector only if no order of forfeiture is passed by Magistrate (May) 151C

Estate Duty Act (34 of 1953), S. 5 — Agricultural land — Whether forest land is agricultural land — Presumption as to Kerala forest lands (Nov) 304

Evidence Act (1 of 1872), S. 9—Land acquisition — Market value — What is relevant is actual price paid — Proof of valid title to transfer is not relevant — *See* Land Acquisition Act (1894), S. 23 (1) (Oct) 265D

—S. 11—Land acquisition—Market value — What is relevant is actual price paid — Proof of valid title to transfer is not relevant — *See* Land Acquisition Act (1894), S. 23 (1) (Oct) 265D

—S. 32—Land acquisition—Sales of other properties — Recitals in documents about price paid — Evidence if relevant under S. 32 — *See* Land Acquisition Act (1894), S. 23 (1) (Oct) 265D

—S. 44—Identity of parties—Suit in which one person is authorised to represent others — Such others are parties to the litigation—Decision is binding on all whom such person represented in a suit in subsequent suit, unless former decision can be shown as vitiated under S. 44 — *See* Civil P. C. (1908), S. 11 Expl. 6 (Jan) 26A

Evidence Act (contd.)

—S. 45—Adulterated tea—Report of Public Analyst and certificate of Director — Value of and binding nature on Courts — *See* Prevention of Food Adulteration Act (1954), S. 13 (May) 146

—S. 45—Expert opinion — Acquisition of land—Determination of market value— Expert opinion when necessary — *See* Land Acquisition Act (1894), S. 23 (1) (Oct) 265C

—Ss. 101-103—Non-compliance with S. 19 (1) (a)—Land acquisition by Collector — Claim for correct market value — Clear statement in evidence by claimant will discharge burden of proof on him — *See* Land Acquisition Act (1894), S. 23 (1) (Oct) 265F

—Ss. 101-104—Gift of immovable property — Acceptance is essential—Onus to prove acceptance — *See* Transfer of Property Act (1882), S. 122 (Jan) 21A

—Ss. 101-104—Onus of proof—Defendants allowed to reside in house purchased by plaintiff till other accommodation was secured — Plaintiff claiming rent—Defendant must prove that he was allowed to live gratuitously — Presumption would be against him — *See* Contract Act (1872), S. 70 (Oct) 263B

—S. 108—Presumption of death in respect of a person not heard of for seven years — There is no presumption of date of death— Onus to prove that death took place within seven years lies on person who claims a right to the establishment of which the fact is essential (July) 213

—S. 114 — Presumption of retrospective continuity (Jan) 21B

—S. 114 — How far bona fide of former litigation can be presumed — *See* Civil P. C. (1908), S. 11 Expl. 6 (Jan) 26A

—S. 114 — Limitation Act (1963), Arts. 64 and 65—Co-owners — Adverse possession — Ouster—Inference of ouster or exclusion — *See* Limitation Act (1963), Art. 64 (July) 222A

—S. 114—Land acquisition — Sale of adjoining properties — Sale deeds registered— No presumption that price shown was actually paid—*See* Land Acquisition Act (1894), S. 23 (1) (Oct) 265E

—S. 114 — Possession of mortgaged property repeatedly changing hands—Presumption, if any — *See* Limitation Act (1908), Art. 142 (Nov) 293D (FB)

—S. 114—Agricultural land — Presumption as to forest lands in Kerala—*See* Estate Duty Act (1953), S. 5 (Nov) 304

—S. 115 — Waiver of fundamental right under Art. 30—When established—*See* Constitution of India, Art. 30 (June) 191B

—S. 115—Land acquisition—Sale of other properties in vicinity—Sale deeds registered

Evidence Act (contd.)

—Sale-deed admitted in evidence — Price paid can still or challenged — See Land Acquisition Act (1894), S. 23 (1). (Oct) 265D

—S. 115—Suit against Government—Private party made defendant along with Government — Benefit of S. 80, Civil P. C. cannot be availed of by such private party—See Civil P. C. (1908), S. 80 (Oct) 280B

—S. 116—Suit against Government—Private party made defendant along with Government — Benefit of S. 80, Civil P. C. cannot be availed of by such private party—See Civil P. C. (1908), S. 80 (Oct) 280B

Finance Act (13 of 1963), S. 2 (2)—“Income-tax” and “super-tax” do not include surcharges thereon — See Finance Act (1964), S. 2 (a) and (b) (Nov) 300

Finance Act (5 of 1964), S. 2 (a) and (b) — Finance Act (13 of 1963), S. 2 (2)—“Income-tax” and “super-tax” do not include surcharges on income-tax and surcharges on super-tax (Nov) 300

Gift Tax Act (18 of 1958), Ss. 2 (xii) and 3 — Gift as per direction of predecessor in interest—Still taxable (Sep) 252B

—S. 2 (xviii) — Gift by two or more persons—When may be taxed as association of individuals—Association must be in ownership of property — Joint transfer insufficient (Sep) 252C

—S. 3 — Gift under instructions of predecessor in interest—Still taxable—See Gift Tax Act (1958), S. 2 (xii) (Sep) 252B

—S. 7 — Gift by association of persons—Constituent individuals residing within the area of different Income-tax Officers—Which of them is the Gift-tax Officer having jurisdiction to assess the association of individuals (Quaere). (Sep) 252A

Hindu Succession Act (30 of 1956), S. 7 (3) — Death of Sthanamadar — Liability for income-tax under Kerala Agricultural Income-tax Act in respect of income of such Sthanamdar—Limitation of — See Kerala Agricultural Income-tax Act (17 of 1950) S. 24 (2) (Jan) 1A (FB)

HOUSES AND RENTS

—Kerala Buildings (Lease and Rent Control) Act (President's Act) (2 of 1965), S. 18 (5) — Order under S. 20 — Revision to High Court Maintainability — See Civil P. C. (1908), S. 115 (Apr) 103 (FB)

—S. 20 (1) — Order passed by District Court under the sections — Is revisable by High Court under S. 115, Civil P. C. — See Civil P. C. (1908), S. 115 (Apr) 103 (FB)

Income-tax Act (11 of 1922), S. 10 (2) (xv) — Allowable deduction—Formation of assessee company by taking over State concerns — By agreement, State to be given 10 p. c. of net profits every year — Net profits to mean amounts for which assessee's audited profits in any year are assessed to income-tax — Amount paid to State held allowable deduction (July) 196

—S. 10 (2) (xv) — Words “for the purpose of such vocation or business” have same effect as words “for the purpose of deriving agricultural income” in S. 5(j) of Kerala Agricultural Income-tax Act (1950)—See Kerala Agricultural Income-tax Act (1950), S. 5 (j) (Aug) 238A

—S. 35—Glaring and obvious mistake of law is a “mistake apparent from the record” — See Civil P. C. (1908), O. 47, R. 1 (June) 186A

Income-tax Act (43 of 1961), S. 37 (1), Sch. 4, Part A, R. 14 (1) — Words “trust” and “trustees” in R. 14 (1) — Meaning — Transfer by assessee company of entire amount standing in Provident Fund Account to Provident Fund Commissioner including employer's contribution—Amount representing employer's Contribution, held, was not a capital expenditure within R. 14 (1) and was permissible deduction under S. 37 (1) (Aug) 227

—Sch. 4, Part A, R. 14 (1) — Amount representing employer's contribution transferred to Provident Fund Commissioner is not a capital expenditure within R. 14 (1) and is permissible deduction under S. 37 (1) — See Income-tax Act (1961), S. 37 (1) (Aug) 227

Industrial Disputes Act (14 of 1947), S. 16 — Tribunal's power to interfere with punishment — Jurisdiction of tribunal is attracted where punishment is imposed not bona fide (Oct) 288A

—S. 15—Constitution of India, Art. 266 — High Court will not interfere with conclusion of Tribunal on the question of severity of punishment when there is some evidence to justify it—Employee absenting from duty without leave — Held punishment of dismissal was too severe and that it was evidence of victimisation (Oct) 288B

—S. 15—Strained relations between employer and employee — Tribunal would be justified in not ordering reinstatement (Oct) 288C

—S. 15—Quantum of compensation when dismissal is held illegal — High Court will not interfere with exercise of discretion by Tribunal unless it is manifestly perverse (Oct) 288D

—S. 33 — Appointment of employee on probation — His removal from service on

Industrial Disputes Act (contd.)

ground of unsuitability a few days after expiry of probation period — Does not amount to alteration of service condition

(Dec) 313

—S. 33 (2) (b)—Decision to dismiss employee taken on 7-6-1966—Application under S. 33 (2) (b) made on 15-7-1966 i.e. before decision to dismiss was actually communicated on 8-12-1966 — One month's salary sent by money order on 8-12-1966 — Held decision became effective only when it was communicated and application made before communication of decision to employee was maintainable—Further held that wages need not have been paid on 7-6-1966 or before application for approval was made on 15-7-1966; tender of wages when decision became effective was sufficient—Case law Ref.

(Dec) 310

Interpretation of Statutes—Repeal and supersession — See Kerala Rice Paddy (Procurement by Levy) Order (1966) (Feb) 38G (FB)

Kerala Agricultural Income-tax Act (17 of 1950), S. 2 (m) — 'Person' (Jan) 1C (FB)

—S. 3—Death of Sthanamdar — Liability for income-tax under the Act in respect of income derived by such stanamadar — See Kerala Agricultural Income-tax Act (17 of 1950), S. 24 (2) (Jan) 1A (FB)

—S. 5(f)—"Subject to a mortgage or other capital charge"—Claim in respect of interest paid on debentures issued by assessee in respect of which floating charge was created on assessee's lands—Whether it would come under "mortgage or other capital charge" under S. 5 (f) (Aug) 238C

—S. 5 (j)—Income-tax Act (1922), S. 10 (2) (xv)—Words "for the purpose of deriving the agricultural income" in S. 5 (j) and "for the purpose of such business or vocation" in S. 10 (2) (xv)—Words though different effect is the same (Aug) 233A

—S. 5 (j)—Expenditure incurred for preparing return of income and statements to be filed before Income-tax Officer — Not an allowable deduction. AIR 1963 MP 223 and (1967) 64 ITR 568 (Cal) following minority view in (1949) 17 ITR (Suppl) 1 (HL), Not Foll. (Aug) 233B

—S. 17—Liability to pay tax assessed is solely that of the person who derives the income—See Kerala Agricultural Income-tax Act (17 of 1950), S. 24 (2) (Jan) 1A (FB)

—S. 18—Liability to pay tax assessed is solely that of the person who derives the income—See Kerala Agricultural Income-tax Act (17 of 1950), S. 24 (2) (Jan) 1A (FB)

—S. 23—Income of person on whom property has devolved after death of Sthanamdar —Liability for income-tax under the Act is

Kerala Agricultural Income-tax Act (contd.) limited to his legal representatives — S. 23 does not apply—See Kerala Agricultural Income-tax Act (17 of 1950), S. 24 (2)

(Jan) 1A (FB)

—Ss. 24 (2), 23, 3, 17 and 18 — Income of persons on whom property has devolved after death of Sthanamdar (Jan) 1A (FB)

Kerala Agriculturists Debt Relief Act (31 of 1958)

See under Debt Laws.

Kerala Buildings (Lease and Rent Control) Act (Presidents Act) (2 of 1965)

See under Houses and Rents.

Kerala Civil Services (Classification, Control and Appeal) Rules (1960)

See under Civil Services.

Kerala Court-fees and Suits Valuation Act (10 of 1960)

See under Court-fees and Suits Valuations.

Kerala Education Act (6 of 1959)

See under Education.

Kerala Education Rules (1959)

See under Education.

Kerala General Sales Tax Rules (1950)

See under Sales Tax.

Kerala High Court Act (5 of 1959-66), S. 5 (1)

—Constitutional validity of impugned provision decided as preliminary point and case posted for further hearing — It is preliminary judgment and appealable—Letters Patent (Bom. Cal. and Mad.), Cl. 15—Civil P. C. (1908), Ss. 2 (2), 2 (9) (Feb) 33A (FB)

Kerala Land Reforms Act, 1963 (1 of 1964)

See under Tenancy Laws.

Kerala Motor Vehicles (Taxation of Passengers and Goods) Act (25 of 1963), Pre.—Act is within the competence of State Legislature—See Constitution of India, Art. 246

(May) 130A

—Pre. — Payment and collection of tax—Statute imposing the same must provide for the same from persons as are made liable by the impost—See Constitution of India, Article 19 (May) 130C

—Pre.—Taxing Statute—Must provide for payment and collection of tax from such persons as are made liable by the impost—See Constitution of India, Art. 265 (May) 130D

—Pre.—Burden imposed by tax held to be reasonable — See Constitution of India, Part. 13 (May) 130E

—S. 3 — Act imposes tax on passengers and goods and not on operators or their income—See Constitution of India, Art. 246

(May) 130A

—S. 3—Constitutional validity of the Act.—Who could challenge—See Constitution of India, Art. 14 (May) 130B

Kerala Motor Vehicles (Taxation of Passengers and Goods) Act (contd.)

—S. 3 — Payment and collection of tax—Statute imposing it must itself provide for it from persons made liable for it—*See* Constitution of India, Art. 265 (May) 130D

—S. 3—Burden imposed by tax held to be reasonable — *See* Constitution of India, Part. 13 (May) 130E

—S. 18—Constitutional validity of Act — Who could challenge — *See* Constitution of India, Art. 14 (May) 130B

—S. 43—Payment and collection of tax — Statute imposing the same must itself provide for it from persons made liable for it—*See* Constitution of India, Art. 265 (May) 130D

—S. 44 — Taxing statute must itself provide for payment and collection of tax from such persons as are made liable by the impost—*See* Constitution of India, Art. 265 (May) 130D

Kerala Municipal Corporation Act (30 of 1961)

See under Municipalities.

Kerala Municipalities Act (14 of 1961)

See under Municipalities.

Kerala Paddy and Rice (Declaration and Requisitioning of Stocks) Order (1966),

Cl. (4) — Clause does not give arbitrary powers to officers to order stock-holder to sell specified quantity of paddy without any enquiry as to stock in his possession—*Essential Commodities Act (1955), S. 3 (2) (f). 1968 Ker L T 223, Reversed: (Feb) 38Q (FB)*

—Cl. (4) — Classification is not unreasonable — *Essential Commodities Act (1955), S. 3 (2) (f) — Constitution of India, Art. 14. 1968 Ker L T 223, Reversed: (Feb) 38R (FB)*

—Cl. (4) — Fixation of compensation for rice and paddy requisitioned at controlled price is "just equivalent" — *Constitution of India, Art. 31 (2). 1968 Ker L T 223, Reversed (Feb) 38S (FB)*

—Cl. 3 (1)—Absence of provision to oblige officer to take excess paddy does not result in discrimination — *Constitution of India, Art. 14—1968 Ker L T 223, Reversed (Feb) 38T (FB)*

Kerala Paddy (Maximum Prices) Order (1965)

—Kerala Rice (Maximum Prices) Order (1965) — Maximum prices fixed under conditions prevailing in 1965—Absence of any data to show that under the present conditions in the State the maximum prices fixed by the Maximum Prices Orders, 1965, do not leave a fair margin of profit over the cost of production — No material to declare the maximum prices now in vogue to be unreal and arbitrary — Expression "the maximum price specified by the Government for the

Kerala Paddy (Maximum Prices) Order (contd.) time being under the Kerala Paddy Rice (Maximum Prices) Order, 1965" indicates categorically that the intention behind the Maximum Prices Orders is to revise the price from time to time as conditions may require — Orders cannot be attacked on ground that maximum price fixed in 1965 remains the same, in view of the undertaking by the Government that it will be checked from year to year (Feb) 38U (FB)

Kerala Paddy (Restriction of Milling) Order (1967) — Person aggrieved — Means person prejudicially affected — *See* Constitution of India, Art. 226 (May) 154A (FB)

—Violation of S. 3 (6) of the *Essential Commodities Act, 1955* does not render the order invalid — *See* *Essential Commodities Act (1955), S. 3 (6) (May) 154B (FB)*

—*Pre.* — Order passed by the State Government as delegate of Central Government cannot be said to be a piece of colourable legislation — *See* *Constitution of India, Art. 245 (May) 154D (FB)*

—*Pre.*—No prior concurrence of Government obtained — Order is invalid—*See* *Essential Commodities Act (1955), S. 3 (2) (a) and (d) (May) 154E (FB)*

Kerala Panchayats Act (32 of 1960)

See under Panchayats.

Kerala Panchayats (Trial of Offences by Magistrates) Rules (1964)

See under Panchayats.

Kerala Rice and Paddy (Procurement by Levy) Order (1966)—Levy order is governed by S. 3 (3B) of *Essential Commodities Act* and not S. 3 (3) of the Act—*Essential Commodities Act (1955), Ss. 3 (3) and (3B) (Feb) 38D (FB)*

—*Essential Commodities Act (1955), S. 3 (2) (f)*—Levy Order is constitutional—Concurrence of Central Government was not necessary — *Civil P. C. (1908), Preamble — Interpretation of Statutes — Repeal and supersession (Feb) 38G*

—Cl. 2 (b) — "Person holding the stock" does not mean that he should have both possession and title — *See* *Essential Commodities Act (1955), S. 3 (2) (f) (Feb) 38J (FB)*

—Cl. 7 — *Essential Commodities Act (1955), S. 3 (3B)*—Levy Order does not transgress limits of delegation conceded to State — The Order contains specification of price — *Constitution of India, Art. 31 (2) — 1968 Ker L T 223, Reversed (Feb) 38E (FB)*

—Cl. 2 (b) — "Cultivator" — Definition is plain and simple—Does not include labourer through whom owner of land does the cultivation—"Actually" means "really"—Words and Phrases—"Actually"—*1968 Ker L T 223, Reversed (Feb) 38B (FB)*

Kerala Rice and Paddy (Procurement by Levy) Order (contd.)

— *Cls. 3, 6, 3-C*—Notification under Cl. 3 is violative of rule of equal protection in Art. 14 of the Constitution — Levy is not unrelated to actual yield — Constitution of India, Art. 14 (Feb) 38N (FB)

— *Cl. 3*—Classification is not unreasonable — Constitution of India, Art. 14 (Feb) 38O (FB)

— *Cl. 3-C*— Notification under Cl. 3 is not violative of Art. 14 of the Constitution—*See Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 3* (Feb) 38N (FB)

— *Cl. 6*— Levy is not unrelated to actual yield—*See Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 3* (Feb) 38N (FB)

— *Cl. 6*—Discretion of administrative officers under, is not unguided and arbitrary — *See Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 13* (Feb) 38P (FB)

— *Cl. 7*— Clause does not violate Art. 31 (2) of the Constitution — Constitution of India, Art. 31 (2) — 1968 Ker L T 223, Reversed (Feb) 38C (FB)

— *Cl. 7*— The order does ignore direction in S. 3 (3B) of the Essential Commodities Act, that cultivator is to be given price specified in the Order having regard to the price "likely to prevail during the post-harvest period"—Essential Commodities Act (1955), S. 3 (3B)—1968 Ker L T 223, Reversed (Feb) 38F (FB)

— *Cl. 11*— Discretion of administrative officers under Cl. 6 is not unguided or arbitrary—*See Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 13* (Feb) 38P (FB)

— *Cls. 13, 6, 11*—Clause does not give Government unbridled power and is not arbitrary — Discretion of administrative officers under Cl. 6 is not unguided and arbitrary—Constitution of India, Art. 14 (Feb) 38P (FB)

Kerala Rice (Maximum Prices) Order (1965)
— Intention behind the order is to revise the prices from time to time as conditions may require—*See Kerala Paddy (Maximum Prices) Order (1965)* (Feb) 38U (FB)

Kerala Rice (Regulation of Movement) Order (1966), Cl. 6 (after its amendment on 22-2-1968)
— Magistrate before whom offender is produced for contravention of the order, cannot direct production of goods seized, before him—*See Essential Commodities Act (1955) as amended by Act 25 of 1966, Ss. 6A to 6D* (May) 151B

Land Acquisition Act (1 of 1894), S. 19—Reference to Court — Non-compliance with provisions of section—Effect (Oct) 265A

— *S. 19 (1)* — Non-compliance with S. 19 (1) (f) by collector — Award showing only

Land Acquisition Act (contd.)

acceptance of valuation by village officer — Burden to prove correct market value on claimant is negligible — *See Land Acquisition Act (1894), S. 23 (1)* (Oct) 265F

— *S. 23 (1)* — Acquisition of land—Compensation—Determination of market value — Modes of (Oct) 265B

— *S. 23 (1)* — Acquisition of land—Compensation—Determination of market value —Necessity of opinion of expert (Oct) 265C

— *S. 23 (1)*—Acquisition of land—Determination of market value — Sale deeds of adjoining lands—Proof of price paid—Due execution of deeds not relevant (Oct) 265D

— *S. 23 (1)*—Acquisition of land—Market value — Sale deeds of adjoining lands — Prices shown cannot be presumed to be real prices paid (Oct) 265E

— *Ss. 23 (1) and 19 (1)* — Acquisition of land — Market value — Burden of proof (Oct) 265F

— *S. 23 (1)* — Acquisition of agricultural land — Market value — Factors which do not add to it (Oct) 265G

— *S. 23 (1)* — Acquisition of land with trees planted — Market value — Mode of valuation (Oct) 265H

— *S. 23 (1)* — Acquisition of agricultural land — Market value — Laws conferring greater rights on tenants — Affect only apportionment of compensation between landlord and tenant — They do not affect market value of the land—Adopting multiple lower than 20 in assessing value of land on income basis held not justified (Oct) 265I

Letters Patent (Bom. Cal. Mad), Cl. 15 — Decision on preliminary point as to constitutional validity of provision — It is preliminary judgment and appealable — *See Kerala High Court Act (1959-66), S. 5 (1)* (Feb) 38A (FB)

Limitation Act (9 of 1908), S. 5 — Amendment of decree under Ss. 151 and 152, Civil P. C. — Time under Art. 156 does not run from date of amendment even if appeal is against amended portion — At best delay can be excused under S. 5—*See Limitation Act (1908), Art. 156* (June) 183

— *S. 6*—*S. 6* does not prevent running of limitation but merely extends period of limitation (June) 163C (FB)

— *Ss. 6, 7 and 8* — Scope — *S. 7* like *S. 6* extends period of limitation — 'Disability', meaning of — 'Cessation of disability' contemplated by *S. 8* includes acquisition of capacity to give discharge — Ceiling of three years extension in *S. 8* equally applies to the two cases contemplated by *S. 7* (June) 163D (FB)

— *Ss. 7, 8 and 22 and Art. 142* — Applicability—Right to sue for possession of family

Limitation Act (1908) (contd.)

property accruing to two sole surviving members of Marumakathayam joint family during their minority—One of them on attaining majority becoming manager of family and is capable of giving discharge without concurrence of other — Suit for possession beyond three years from such date held barred (June) 163A (FB)

—S. 7 — 'Persons jointly entitled to institute suit' — Meaning of — S. 7 applies to persons whose substantive right is joint and not several — Plaintiffs joining in one suit under O. 1, R. 1, Civil P. C., are not necessarily so entitled—Members of joint family are jointly entitled to recover family property — 38 Cochin 379 (FB) and view of Menon C. J., in AIR 1964 Ker 8 (FB), Dissented from (June) 163B (FB)

—S. 7 — Section extends period of limitation — "Cessation of disability" contemplated by S. 8 includes acquisition of capacity to give discharge—See Limitation Act (1908), S. 6 (June) 163D (FB)

—S. 8—Applicability—Suit being governed by Art. 142 is barred by combined operation of Arts. 7 and 8 — See Limitation Act (1908), S. 7 (June) 163A (FB)

—S. 8 — Cessation of disability contemplated by S. 8 includes acquisition of capacity to give discharge — See Limitation Act (1908), S. 6 (June) 163D (FB)

—S. 22 — Right to sue for possession of family property accruing to two surviving members of Marumakathayam joint family — One of them on attaining majority becoming manager and capable of giving discharge without concurrence of other — Suit for possession beyond three years from such date held barred—See Limitation Act (1908), S. 7 (June) 163A (FB)

—Art. 134 — Provisions are similar to Travancore Limitation Act, Art. 122 — See Travancore Limitation Act (6 of 1100 M E) (Oct) 259

—Art. 138—Limitation Act (1963), Art. 65 — Suit for recovery of possession of property by decree-holder auction purchaser on basis of execution sale within 12 years of delivery of symbolical possession—Not barred by limitation — Symbolical possession has the effect of giving a fresh starting point of limitation (April) 121B

—Art. 142—Right to sue for possession of family property accruing to two surviving members of Marumakathayam joint family — One of them on attaining majority becoming manager and capable of giving discharge without concurrence of other — Suit for possession beyond three years from such date held barred—See Limitation Act (1908), S. 7 (June) 163A (FB)

Limitation Act (1908) (contd.)

—Arts. 142 and 144—Possession of co-heir — When adverse to other co-heir not in possession, stated (Nov) 293A (FB)

—Arts. 142 and 144—Whether during subsistence of usufructuary mortgage there can be in law any adverse possession as against mortgagor who has no right to immediate possession (*Quaere*) (Nov) 293B (FB)

—Arts. 142 and 144 — Onus of proof — Possession of mortgaged property repeatedly changing hands from time to time — There is no presumption that such other person has taken possession without any right (Nov) 293D (FB)

—Art. 156, S. 5—Civil P. C. (1908), Ss. 151, 152, O. 20, R. 7 — Amendment of decree under Ss. 151, 152, C. P. C. — Time under Art. 156 does not run from date of amendment even if appeal is against amended portion — Delay may at best be excused under S. 5 of Limitation Act (June) 183

Limitation Act, (63 of 1963), Arts. 64 and 65 — Co-owners—Adverse possession—Ouster — Inference of ouster or exclusion (July) 222A

—Art. 65 — Symbolical possession has the effect of giving a fresh start of limitation—See Limitation Act (1908), Art. 138 (Apr) 121B

—Art. 65—Co-owners—Adverse possession—Ouster—Inference of ouster or exclusion—See Limitation Act (1963), Art. 64 (July) 222A

—Art. 131 — Revision—Limitation—Starting point — See Criminal P. C. (1898), S. 435 (Apr) 126 (FB)

Madras Hindu Religious and Charitable Endowments Act (19 of 1951), S. 49—Dismissal of servant of religious institution — Dismissal set aside by Deputy Commissioner — Trustee not complying with the order—Declaration that dismissal is void can be granted by civil Court — See Specific Relief Act (1877), S. 42, Proviso (Feb) 36

Madras Marumakkathayam Act (22 of 1933), S. 3 (a) (c) — Tarwad—Representation—See Travancore Nayar Act (2 of 1100 M.E.), S. 31 (Jan) 26B

—S. 32 — Tarwad — Representation—See Travancore Nayar Act (2 of 1100 M.E.) S. 31 (Jan) 26B

—S. 48—Terms of gift deed not indicating intention to cut down absolute estate — No presumption under S. 48 to be gift in favour of Tavazhi—See Succession Act (1925), S. 25 (Sep) 246

Madras Revenue Recovery Act (2 of 1864), S. 43—Sale of property in revenue proceedings—Property vests in purchaser from date of sale—See Civil P. C. (1908), S. 65 (Oct) 263A

Marumakkathayam Law—Estate of Sthanamdar in Sthanam property prior to Hindu Succession Act — Nature of (Jan) 1B (FB)
 —Tarwad—Representation — See Travancore Nayar Act (2 of 1100 M. E.), S. 31

(Jan) 26B
Medicinal and Toilet Preparations (Excise Duties) Act (16 of 1955), S. 3, Sch. Item No. 2 (substituted by Finance Act, 5 of 1964)—Medicinal preparations containing self-generated alcohol which are not capable of being consumed as ordinary alcoholic beverage and to which alcohol has also been added—Levy of duty will be under Item 2 (iii) only on quantity of alcohol added (Apr) 124

MUNICIPALITIES

—**Kerala Municipal Corporation Act (30 of 1961), Ss. 98 to 138** — Levy of licence-fee — Validity—See Municipalities—Kerala Municipal Corporation Act (30 of 1961), S. 299

(Apr) 99
 —Ss. 299, 387 — Calicut City Municipal Act (30 of 1961), Ss. 299, 387 and 98 to 138—Levy by Corporation of licence-fee for soaking coconut husks in soaking pits in payer's property—Levy is not valid (Apr) 99

—S. 387—Levy of licence-fee for soaking coconut husks in pits in one's property—Not valid—See Municipalities — Kerala Municipal Corporation Act (30 of 1961), S. 299

(Apr) 99
 —**Kerala Municipalities Act, 1960 (14 of 1961), S. 96 to 151**—Mandatory provisions of Ss. 96 to 151 not followed — Effect — Demand by Municipality of licence fee for running medicinal shop not valid — See Municipalities — Kerala Municipalities Act, 1960 (14 of 1961), S. 284

(Apr) 109 (FB)
 —S. 135 — Demand by Municipality of licence fee for medicinal shop—Not valid—See Municipalities — Kerala Municipalities Act, 1960 (14 of 1961), S. 284 (Apr) 109 (FB)
 —Ss. 284, 135, 96 to 151, Sch. III, Item 20—Demand by municipality of licence fee for running medicinal shop—Levy is not valid — Licence fee cannot be imposed for reimbursing cost of ordinary municipal services — Mandatory provisions of Ss. 96 to 151 not followed — Levy in nature of tax cannot be justified (Apr) 109 (FB)

—Sch. 3, Item 20—Licence fee for running medicinal shop—Demand for by Municipality is not valid—See Municipalities—Kerala Municipalities Act, 1960 (14 of 1961), S. 284

(Apr) 109 (FB)

Negotiable Instruments Act (26 of 1881), Ss. 4, Illus. (b) and 13 (1) Explan. 1 — Document otherwise fulfilling terms of promissory note — Absence of expression "or to the order of" in it — Document does not lose its character as promissory note (June) 189

Negotiable Instruments Act (contd.)

—S. 13 (1), Explan. 1 — Promissory note — Requirements of — See Negotiable Instruments Act (1881), S. 4, Illus. (b) (June) 189

PANCHAYATS

—**Kerala Panchayats Act (32 of 1960), Ss. 119 to 129 (2) (xxxix)**—Kerala Panchayats (Trial of Offences by Magistrates) Rules (1964), R. 3 before amendment of 14-12-67—Rule is not ultra vires—Section 119 of the Act and R. 3 deal with different powers and there can be no conflict between them (Apr) 111B

—S. 119 — Kerala Panchayats (Trial of Offences by Magistrates) Rules (1964), R. 3 prior to amendment of 14-12-1967—Panchayat offence—Sub-Divisional Magistrate has no power to take cognizance under S. 190 (1) (c), Criminal P. C. — Power not saved by S. 119 (Apr) 111F

—S. 129 (2)—Rules under—Kerala Panchayats (Trial of Offences by Magistrates) Rules (1964), R. 3—Validity — See Constitution of India, Art. 254 (2) (Apr) 111A

—S. 129 (2) (xxxix)—Scope—See Panchayats—Kerala Panchayats Act (32 of 1960), S. 119 (Apr) 111B

—**Kerala Panchayats (Trial of Offences by Magistrates) Rules (1964), R. 3**—Rule not ultra vires on ground of repugnancy to S. 119 of the Kerala Panchayats Act, 1960—See Panchayats—Kerala Panchayats Act (32 of 1963), S. 119 (Apr) 111B

—R. 3—Panchayat offence—S. D. M., has no power to take cognizance of under S. 190 (1) (c), Criminal P. C. — See Constitution of India, Art. 254 (2) (Apr) 111F

—R. 3 as it stood prior to amendment of 14. 12.1967 is valid—Panchayat offences committed within panchayat area in respect of which no second class Magistrate is appointed—First Class Magistrate having jurisdiction over that area is not competent to take cognizance and try those offences (Apr) 111G

Penal Code (45 of 1860), S. 34—One group of persons detaining complainant carrying some articles — Other group removing the articles—All can be charged with offence committed with common intention — See Penal Code (1860), S. 395 (Jan) 29B

—Ss. 300, 302 — Provocation — Proof — Nature of—Evidence of any witness is not essential (Apr) 120B

—S. 302—Sentence—Capital punishment awarded by Sessions Court—Reduction of by Appellate Court (Apr) 120A

—S. 302—Provocation—Proof—Nature of — See Penal Code (1860), S. 300 (Apr) 120B

—S. 379—One group of persons detaining complainant carrying some articles — Other group removing the articles — All can be

Penal Code (contd.)

charged with offence committed with common intention—*See* Penal Code (1860), S. 395 (Jan) 29B

—Ss. 395, 379, 34—One group of persons detaining complainant carrying some articles—Other group removing the articles—All can be charged with offence committed with common intention (Jan) 29B

Part B States (Laws) Act (3 of 1951), S. 6—Repeal of Cochin T. P. Act—Charge created under Cochin Act continues—*See* Debt Laws—Kerala Agriculturists Debt Relief Act (31 of 1958), S. 2 (c) (vii) (Aug) 234A (FB)

Prevention of Food Adulteration Act (37 of 1954), S. 5—Purchase of sugar from shops, not dealers in sugar—Purchase is not one under the Act making vendor liable for offence under the Act—*See* Prevention of Food Adulteration Act (1954), S. 16 (1) (a) (i) (June) 179

—S. 7—Sale of adulterated tea—Binding nature of report of Public Analyst and certificate of Director—*See* Prevention of Food Adulteration Act (1954), S. 13 (May) 146

—S. 7—Purchase of sugar from shops not dealers in sugar—Purchase not one under the Act—*See* Prevention of Food Adulteration Act (1954), S. 16 (1) (a) (i) (June) 179

—S. 7 (i)—Storing 'simpliciter' is not an offence—Storing for sale is punishable—*See* Prevention of Food Adulteration Act (1954), S. 16 (1) (a) (i) (Mar) 79

—Ss. 13, 7, 16—Sale of adulterated tea—Report of Public Analyst and certificate of Director—Value of—Binding nature on Courts (May) 146

—S. 16—Sale of adulterated tea—Report of Public Analyst and certificate of Director—Value of—Binding nature on Courts—*See* Prevention of Food Adulteration Act (1954), S. 13 (May) 146

—Ss. 16 (1) (a) (i), 7 (i)—Storing "simpliciter" is not an offence—Storing for sale is punishable—AIR 1967 Cal 110, Dissented from (Mar) 79

—Ss. 16 (1) (a) (i), 7, 5—Prevention of Food Adulteration Rules (1955), R. 44 (g)—Purchase of sugar by Food Inspector from owners of tea shops who are not dealers in sugar—Purchase is not one under Act which will make vendor liable for offence under the Act—AIR 1964 All 199 & AIR 1964 Guj 191, Dissented from (June) 179

Prevention of Food Adulteration Rules (1955), R. 44 (g)—Purchase of sugar from tea shops, not dealers in sugar—Not one under the Act making vendor liable for offence under the Act—*See* Prevention of Food Adulteration Act (1954), S. 16 (1) (a) (i) (June) 179

Produce Cess Act (15 of 1966), Ss. 3 (2), 5 (1), (2)—Constitution of India, Arts. 265, 272, Sch. VII, List II, Entry 14, List I, Entry 84—Nature of impost must be construed from the whole enactment and not by language used to describe the levy—Nature of cess imposed under S. 3 (2) is a tax by way of excise duty—Levy comes under Sch. VI, List I, Entry 84—Levy need not be merged with general revenue but can be earmarked for specific purposes (June) 176

—S. 5 (1)—Nature of impost must be construed from the whole enactment and not by language used to describe the levy—Nature of cess imposed under S. 3 (2) is a tax by way of excise duty—*See* Produce Cess Act (1966), S. 3 (2) (June) 176

Provincial Insolvency Act (5 of 1920), S. 37—"Act done by Court or Receiver"—Official Receiver fixing amount due from debtor to insolvent's estate—Order passed is "act done by Receiver" (July) 211A

—S. 37—Assignment of rights in bond executed by debtor in favour of insolvent—Amount of bond reduced by Official Receiver—Suit by assignee—Assignee is entitled to recover only amount as found by Official Receiver—Assignment being subject to equities which could have been claimed against assignor, equitable set off is permissible (July) 211B

Registration Act (16 of 1908), S. 47—Effect of registration—Merely by reason of registration knowledge of transaction or of recitals in document cannot be imputed to third party so as to set limitation running against him (Nov) 293C (FB)

Rice Milling Industry (Regulation) Act (21 of 1958)—Kerala Paddy (Restriction of Milling) Order, 1967, passed by Kerala Government as a delegate of Central Government is not an invalid order—It cannot be said that the purpose of the order is the same as that of the Central Act—*See* Constitution of India, Art. 245 (May) 154D (FB)

—S. 7—Suspension of working of rice mill by Government—Mill not moving Government to vacate it—Writ petition challenging order maintainable. O. P. 3956 of 1967 (Ker), Reversed—*See* Constitution of India, Art. 226 (Sep) 243 (FB)

—S. 12—Suspension of working of rice-mill by Government—Mill not moving Government to vacate it—Writ petition challenging order maintainable. O. P. 3956 of 1967 (Ker), Reversed—*See* Constitution of India, Art. 226 (Sep) 243 (FB)

SALES TAX

—**Central Sales Tax Act (74 of 1956), S. 2 (i) and (4)—**Determination of turnover under—All deductions allowed under State law to be made from the gross turnover in deter-

Sales Tax—Central Sales Tax Act (contd.)
 mining the net turnover shall be liable to deduction in determining the taxable turnover under the Central Sales Tax Act, 1956. (1966) 17 STC 396 (Mad), Diss. (July) 205

—**Kerala General Sales Tax Rules (1950), R. 7**
 (1) (a) — Determination of turnover under Central Act — Deductions—*See* Sales Tax—Central Sales Tax Act (1956), S. 2 (j) and (4) (July) 205

Specific Relief Act (1 of 1877), S. 42, Proviso—
 Dismissal of servant of religious institution — No compliance by trustee, in spite of order of Dy. Commissioner's setting aside dismissal — Declaration that dismissal is void can be granted by Civil Court — Proviso not attracted merely because second relief of reinstatement was refused (Feb) 36

Stamp Act (2 of 1899)
See under Stamp Duty

STAMP DUTY

—**Stamp Act (2 of 1899), S. 2 (22)** — Promissory note — Requisites of — *See* Negotiable Instruments Act (1881), S. 4, Illustration (b) (June) 189

Succession Act (39 of 1925), S. 74 — Will — Construction—General principles—Testator bequeathing his entire properties to wife and after her death to his children by making allotments — Will held created only life-estate in favour of wife (July) 207A

—**S. 74**—Will — Construction — General principles — Gift over — Effect of — When does not indicate intention to cut down absolute estate (Sep) 246

—**Ss. 131 and 132** — Condition subsequent in defeasance of vested interest—To be construed strictly—Breach of condition—Clear and very strong evidence of its breach essential to operate as forfeiture of vested interest (July) 207B

—**S. 278** — Petition for Letters of Administration — Allegation that the assets mentioned in Annexure A to petition form part of personal assets of deceased is sufficient for purposes of petition (Sep) 256A

—**Ss. 278, 284 and 295**—Petition for Letters of Administration with the will annexed in respect of properties and assets covered by will of the deceased — Caveat sought to be substained on ground that testator had no disposing power over items in annexure — Held caveator not being one interested in

Succession Act (contd.)

personal assets of deceased was not entitled to oppose grant of Letters of Administration — Petitioner's costs would come out of estate of deceased (Sep) 256B

—**Ss. 278 and 283** — Petition for Letters of Administration—Question of title in respect of property dealt with by will — Not to be decided in these proceedings (Sep) 256C

—**S. 283**—Petition for Letters of Administration—Question of title in respect of property dealt with by will not to be decided in these proceedings — *See* Succession Act (1925), S. 278 (Sep) 256C

—**S. 284**—Caveator not being one interested in personal assets of deceased not entitled to oppose grant of letters of administration—*See* Succession Act (1925), S. 278: (Sep) 256B

—**S. 295**—Contentious proceedings—Costs how saddled — *See* Succession Act (1925), S. 278 (Sep) 256B

TENANCY LAWS

—**Kerala Land Reforms Act, 1963 (1 of 1964), S. 2 (60) (8)**—Varamadar as defined in latter part of S. 2 (60) is entitled to apply for fixation of fair rent under S. 31 — *See* Tenancy Laws—Kerala Land Reforms Act, 1963 (1 of 1964), S. 31 (Jan) 11 (FB)

—**Ss. 7 and 13** — Rule of *lis pendens* not abrogated (April) 121C

—**S. 8**—Varamdar is a deemed tenant and is included in definition of tenant—*See* Tenancy Laws—Kerala Land Reforms Act, 1963 (1 of 1964), S. 31 (Jan) 11 (FB)

—**S. 10 (3)** — Varamdar is a "deemed tenant"—*See* Tenancy Laws—Kerala Land Reforms Act 1963 (1 of 1964), S. 31 (Jan) 11 (FB)

—**S. 13**—Rule of *lis pendens* not abrogated by the provisions of the section — *See* Tenancy Laws—Kerala Land Reforms Act (1 of 1964), S. 7 (April) 121C

—**S. 13 (1)**—Benefit of section—Available to all tenants including cultivating tenants —*See* Tenancy Laws—Kerala Land Reforms Act, 1963 (1 of 1964), S. 31 (Jan) 11 (FB)

—**Ss. 31, 2 (60), 2 (8), 13 (1), 35, 8, 10 (3)**—“Varamdar” defined in latter part of S. 2 (60) is entitled to apply for fixation of fair rent under S. 31—Varamdar is “a deemed tenant” and is included in definition of “tenant” — He has cultivating possession and is lessee (Jan) 11 (FB)

—**S. 35** — “Tenant” includes “a deemed tenant”—Varamdar is a deemed tenant—*See* Tenancy Laws — Kerala Land Reforms Act, 1963 (1 of 1964), S. 31 (Jan) 11 (FB)

Tort — Negligence — Burden of proof — Collision with motor-car—Suit for damages — Onus not discharged by plaintiff — Suit held rightly dismissed (Jan) 9B

Transfer of Property Act (4 of 1882), S. 5 — Family settlement—What constitutes

(July) 214B

—S. 8—Promissory note — What is — See Negotiable Instruments Act (1881), S. 4, Illustration (b) (June) 189

—S. 8 — Transaction continued in more than one document between the same parties — Document must be read and interpreted together (July) 214D

—S. 28 — Condition subsequent in defeasance of vested interest must be strictly construed — See Succession Act (1925), Ss. 131 and 132 (July) 207B

—S. 29—Condition subsequent in defeasance of vested interest must be strictly construed — See Succession Act (1925), Ss. 131 and 132 (July) 207B

—S. 52—Rule of *lis pendens*—Provisions contained in a statute will not have the effect of abrogating the rule — See Tenancy Laws—Kerala Land Reforms Act (1 of 1964), S. 7 (April) 121C

—S. 55 — Application to Travancore-Cochin after repeal of Cochin T. P. Act — Charge created under Cochin Act continues — See Debt Laws — Kerala Agriculturists Debt Relief Act (31 of 1958), S. 2 (c) (vii) (Aug) 234A (FB)

—S. 91—Besides the mortgagor—Redemption of sub-mortgage — Mortgagor entitled to redeem sub-mortgage — Expression “property mortgaged” — Meaning. AIR 1953 Trav.Co 271 and (1896) ILR 20 Bom 549, Dissent. from (Mar) 73

—S. 105—Essentials of lease—See Tenancy Laws — Kerala Land Reforms Act, 1963, (1 of 1964), S. 31 (Jan) 11 (FB)

—S. 105—Lease or licence — Absence of document — Intention of parties and surrounding circumstances to be considered — A engaged as *karaistha* of *illom* entrusted with disputed property — Subsequently A ceasing to be *Karaistha* but out of consideration for him property not resumed and he was allowed to be in enjoyment of property—On A's nephews trespassing on property, *illom* filing suit for their ejection — After recovery of property in execution *illom* again putting A in possession on same terms — Possession of A held not that of licensee but of lessee (Feb) 34

—S. 122 — Gift of immovable property — Acceptance is essential — Acceptance must

T. P. Act (contd.)

he before death of donor — Onus of proving acceptance (Jan) 21A

Travancore Limitation Act (6 of 1100 M. E.), Art. 122 — Point from which limitation starts—Limitation starts from date on which transfer becomes known to plaintiff: (Oct) 259

Travancore Nayar Act (2 of 1100 M. E.), S. 31—Section concerned with decrees binding on *tarwad* — It does not deal with capacity of person to represent *tarwad* — S. 31 does not affect Marumakkathayam Law — Section does not say who can obtain decree against a *tarwad* — If and when such decree would operate as *res judicata* (*Obiter*) (Jan) 26B

Travancore Revenue Recovery Act (1 of 1068 M. E.), S. 50 — Proceeding for setting aside revenue sale — Parties — Principle of *audi alteram partem*—Applicability — Non-joinder of parties—Effect—S. 50 Travancore Revenue Recovery Act (1 of 1068 M. E.) would not apply (Oct) 280A

Travancore Service Regulations

See under Civil Services.

Trusts Act (2 of 1882), S. 3—Words Trust and Trustee used in Sch. 4, Part, A Rule 14 (1) of Income-tax Act (1961) do not mean trust and trustees created by statute — See Income-tax Act (1961), S. 37 (1) (Aug) 227

Wealth Tax Act (27 of 1957), S. 3 — Imposition of additional wealth tax on capital assets based on population of areas — Validity—See Constitution of India, Art. 14 (Mar) 69

—Sch. Part I, Para A, Cl. (c) read with Rr. 1 and 2 of Para. B — Imposition of additional wealth tax on capital assets — Validity—See Constitution of India, Art. 14 (Mar) 69

Will — Construction — See Succession Act (1925), S. 74

Words and Phrases—“Actually”—See Kerala Rice and Paddy (Procurement by Levy) Order (1966), Cl. 2 (b). (Feb) 38B (FB)

—Floating charge — Meaning of — See Kerala Agricultural Income-tax Act (1950), S. 5 (f) (Aug) 238C

—Person aggrieved — See Constitution of India, Art. 226 (May) 154A (FB)

—“Probationer”—Probationer continuing after expiry of period of probation—He will continue as probationer—See Industrial Disputes Act (14 of 1947), S. 33 (Dec) 313

—“Trust” and “Trustees”, meaning of, in Sch. 4, Part A, Rule 14 (1) of Income-tax Act (1961)—See Income-tax Act (1961), S. 37 (1) (Aug) 227

KERALA CASES SUBJECTWISE OVERRULED, REVERSED AND DISSENTED FROM, ETC., IN A. I. R. 1969

Diss.=Dissented from in; Not F.=Not followed in; Over.=Overruled in;
Revers.=Reversed in.

Civil Procedure Code (5 of 1908)

- S. 115—1960 Ker L T 1248 — **Over.** AIR 1969 Ker 103 (Apr).
- S. 115—1960 Ker L T 1248 — **Over.** AIR 1969 Ker 103 (Apr).
- S. 144—1966 Ker L J 844 — **Over.** AIR 1969 Ker 31 (Feb).

Constitution of India

- Art. 226 — O. P. 3956 of 1967 (Ker)—**Revers.**—AIR 1969 Ker 243 (Sep) (FB).
- Art. 311 (2)—1964 Ker L T 180—**Over.** AIR 1969 Ker 244 (Sep) (FB).

Criminal Procedure Code (5 of 1898)

- S. 4 (1) (h) — 1968 Ker L T 57—**Held no longer good law** in view of AIR 1964 S C 1541 as interpreted. A I R 1969 Ker 97 (Apr).
- S. 156 (3)—1968 Ker L T 57 — **Held no longer good law** in view of AIR 1964 S C 1541 as interpreted in AIR 1969 Ker 97 (Apr).
- S. 190—1968 Ker L T 57—**Held no longer good law** in view of A I R 1964 S C 1541 as interpreted. A I R 1969 Ker 97 (Apr).
- S. 435—AIR 1967 Ker 280—**Over.** A I R 1969 Ker 126 (Apr).
- S. 438—AIR 1967 Ker 280—**Over.** A I R 1969 Ker 126 (Apr) (FB).
- S. 439—AIR 1967 Ker 280—**Over.** AIR 1969 Ker 126 (Apr) (FB).
- S. 488 (1) — AIR 1961 Ker 297 — **Diss.** AIR 1969 Delhi 235A (Aug).

DEBT LAWS

- Kerala Agriculturists Debt Relief Act (31 of 1958)
- S. 2 (c) (vii) Obiter in 1965 Ker LT 104 Doubting — 1962 Ker L T 254—**Dis-**

Debt Laws—Kerala Agriculturists Debt Relief Act (contd.)

- approved. A I R 1969 Ker 234A (Aug) (FB).
- Kerala Paddy and Rice (Declaration and Requisitioning of Stocks) Order (1966)**
- Cl. 3 (1) — 1968 Ker L T 223 — **Revers.** AIR 1969 Ker 38T (Feb) (FB).
- Cl. 4—1968 Ker L T 223 — **Revers.** AIR 1969 Ker 38Q, R, S (Feb) (FB).

Kerala Rice and Paddy (Procurement by Levy) Order (1966)

- Cl. 7—1968 Ker L T 223—**Revers.** AIR 1969 Ker 38C, E, F (Feb) (FB).

Limitation Act (9 of 1908)

- S. 7 — View of M. S. Menon C. J. in AIR 1964 Ker 8 (FB)—**Diss.** AIR 1969 Ker 163B (June) (FB).

MUNICIPALITIES

- Gujarat Municipalities Act, 1963 (34 of 1964)
- S. 14 (5) (a), (iv) — AIR 1962 Ker 190 (FB) — **Diss.** AIR 1969 Guj 334 (Nov).
- Rajasthan Municipalities Act (38 of 1959)
- S. 104 — AIR 1962 Ker 298 — **Held not good law** in view of AIR 1965 S C 1107 as interpreted. A I R 1969 Raj 146A (May)

SALES TAX

- Central Sales Tax Act (74 of 1956)
- S. 4 (1) & (4)—AIR 1966 Ker 60 — **Diss.** AIR 1969 Ker 205 (July)

KERALA CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss.=Dissented from in; Not F.=Not followed in; Owers.=Overruled in;
Revers.=Reversed in.

- 1960 Ker L T 1248 = 1960 Ker L J 1254, Kurien v. Chacko — **Over.** AIR 1969 Ker 103 (Apr) (FB).
- AIR 1961 Ker 297 = (1961) 2 Cri L J 640, Saraswati v. Madhavan — **Diss.** AIR 1969 Delhi 235A (Aug).
- AIR 1962 Ker 190 = I L R (1962) 1 Ker 1 (FB), P. Kunhiraman v. V. R. Krishna Iyer — **Diss.** AIR 1969 Guj 334 (Nov).
- AIR 1962 Ker 298 = I L R (1962) 1 Ker 494, S. M. Union (Pri.) Ltd. v. State of Kerala — **Held not Good Law** in view of AIR 1965 S C 1107 as interpreted. AIR 1969 Raj 146A (May)
- 1962 Ker L T 254 = 1962 Ker L J 539, Kochukunju Kunjukunju v. Sankaran Ambujaksnan — **Disapproved.** AIR 1969 Ker 234A (Aug) (FB).
- (1963) 49 I T R 927 = 1963 Ker L T 494, Commr. of I. T. v. Morning Stars Bus Service — **Over.** AIR 1969 S C 812A (Sep).
- (1964) View of M. S. Menon C. J. in AIR 1964 Ker 8 = 1963 Ker L J 1052 (FB), Kunhamad v. Narayanan — **Diss.** AIR 1969 Ker 163B (Jun) (FB).
- AIR 1964 Ker 92 = 1963 Ker L J 876 = 1963 Ker L T 958 = I L R (1963) 2 Ker 591, Koteswar Vittal v. Rangappa Baliga & Co. **Revers.** AIR 1969 S C 504A, B (Jun).
- (1964) 1964 Ker LT 180 = ILR (1964) 1 Ker 543, Narayana Murthy v. State of Kerala — **Over.** AIR 1969 Ker 244 (Sep) (FB).
- AIR 1965 Ker 222, K. B. Kalikatti v. I. T. Commr. — **Revers.** AIR 1969 S C 869 (Oct).
- ILR (1965) 2 Ker 141, Mani Joshua v. Mani Mani — **Revers.** AIR 1969 S C 1311 (Dec).
- Obiter in 1965 Ker L T 104 = I L R (1965) 1 Ker 318, Beevi v. Pareed doubting 1962 Ker L T 254, disappointed. — **Doubt.** AIR 1969 Ker 234A (Aug) (FB).
- AIR 1966 Ker 60 = (1965) 16 S T C 794, Laxmi Starch Factory Ltd. v. State of Kerala — **Diss.** AIR 1969 Ker 205. (July)
- 1966 Ker L J 844 = 1966 Ker L T 939, Sreedevi Amma v. Rugmini Amma — **Over.** AIR 1969 Ker 31 (Jan).
- AIR 1967 Ker 280 = 1967 Ker L T 31 = 1967 Cri L J 1640, Devaki v. Kitta — **Over.** AIR 1969 Ker 126 (Apr) (FB).
- O. P. 3956 of 1967 (Ker) — **Revers.** AIR 1969 Ker 243 (Sep) (FB).
- 1968 Ker L T 57 = 1968 Mad L J (Cri) 70, State of Kerala v. Wilfred. **Held no longer good law** in view of AIR 1964 S C 1541 as interpreted AIR 1969 Ker 97 (Apr).
- 1968 Ker L T 223, Narayana Panicker v. Disriect Supply Officer Palghat — **Revers.** AIR 1969 Ker 38C, E, F, Q, R, S, T (FB) (Feb).

TRAVANCORE COCHIN CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss. = Dissented from in; Not-F. = Not followed in; Over. = Overruled in;
Revers. = Reversed in

Civil Procedure Code (5 of 1908)

- S. 105 — A I R 1952 Trav-Co 316 — **Doubted.** AIR 1969 Mad 324A (Sep).
- O. 21, R. 90 — AIR 1952 Trav-Co 316 — **Doubted.** AIR 1969 Mad 324A (Sep).

Constitution of India

- Art. 304 (b), Proviso — AIR 1954 Trav-Co 34 — **Over.** AIR 1969 SC 504B (June).
- Art. 304 (b), Proviso — AIR 1954 Trav-Co 257 — **Over.** AIR 1969 SC 504B (June).
- Art. 304 (b), Proviso — AIR 1955 Trav-Co 82 — **Over.** AIR 1969 SC 504B (June).
- Art. 107 — AIR 1954 Trav-Co 34 — **Over.** AIR 1969 SC 504B (June).

Constitution of India (contd.)

- Art. 107 — AIR 1954 Trav-Co 257 — **Over.** AIR 1969 SC 504B (June).
- Art. 107 — AIR 1955 Trav-Co 82 — **Over.** AIR 1969 SC 504B (June).
- Art. 109 — AIR 1954 Trav-Co 34 — **Over.** AIR 1939 SC 504B (June).
- Art. 109 — AIR 1954 Trav-Co 257 — **Over.** AIR 1969 SC 504B (June).
- Art. 109 — AIR 1955 Trav-Co 82 — **Over.** AIR 1969 SC 504B (June).
- Art. 114 — AIR 1954 Trav-Co 34 — **Over.** AIR 1969 SC 504B (June).
- Art. 114 — AIR 1954 Trav-Co 257 — **Over.** AIR 1969 SC 504B (June).

Constitution of India (*cont'd.*)

- Art. 114—AIR 1955 Trav-Co 82 — **Over.**
AIR 1969 SC 504B (June).
- Art. 117—AIR 1954 Trav-Co 34 — **Over.**
AIR 1969 SC 504B (June).
- Art. 117—AIR 1954 Trav-Co 257—**Over.**
AIR 1969 SC 504B (June).
- Art. 117—AIR 1955 Trav-Co 82 — **Over.**
AIR 1969 SC 504B (June).
- Art. 198—AIR 1954 Trav-Co 34 — **Over.**
AIR 1969 SC 504B (June).
- Art. 198—AIR 1954 Trav-Co 257—**Over.**
AIR 1969 SC 504B (June).
- Art. 198—AIR 1955 Trav-Co 82 — **Over.**
AIR 1969 SC 504B (June).
- Art. 202—AIR 1954 Trav-Co 34 — **Over.**
AIR 1969 SC 504B (June).

Constitution of India (*cont'd.*)

- Art. 202—AIR 1954 Trav-Co 257—**Over.**
AIR 1969 SC 504B (June).
- Art. 202—AIR 1955 Trav-Co 82 — **Over.**
AIR 1969 SC 504B (June).

Defence of India Rules (1939)

- R. 94A — AIR 1957 Trav-Co 6 — **Diss.**
AIR 1969 Cal 578B (Dec).

Limitation Act (9 of 1908)

- S. 7—38 Cochin 379 (FB) — **Diss.** AIR
1969 Ker 163B (FB) (June).

Transfer of Property Act (4 of 1882)

- S. 91 — AIR 1953 Trav-Co 271 — **Diss.**
AIR 1969 Ker 73 (Mar).

**TRAVANCORE-COCHIN CASES OVERRULED AND DISSENTED
FROM ETC., IN A. I. R. 1969**

Diss.=Dissented from in; Not-F.=Not followed in; Over.=Overruled in.

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|---|---|
| <p>AIR 1952 Trav-Co 316=ILR (1951) Trav-Co 639, Md. Ali v. Abdul Rahiman — Doubted. AIR 1969 Mad 324A (Sep).</p> <p>AIR 1953 Trav-Co 271, Gouri v. Lekshmi — Diss. AIR 1969 Ker 73 (Mar).</p> <p>AIR 1954 Trav-Co 34=1954 Cri L J 63, George v. State — Over. AIR 1969 SC 564B (June).</p> <p>AIR 1954 Trav-Co 257=1954 Cri L J 669, State v. Philipose Philip — Over. AIR 1969 SC 504B (June).</p> | <p>AIR 1955 Trav-Co 82=1955 Cri L J 844 (FB), Ulahannam Mathai v. State — Over. AIR 1969 SC 504B (June).</p> <p>AIR 1957 Trav-Co 6=ILR (1956) Trav-Co 1181, Ittiavira Thomas v. Joseph Tile-Works Ltd.—Diss. AIR 1969 Cal 578B (Dec).</p> <p>38 Cochin 379 (FB), 'Ikkanda Warriar v. Parameswaram Elayath — Diss. AIR 1969 Ker 163B (FB) (June).</p> |
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COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years

Owing to late receipt of other Journals the following *supplement* to Comparative Tables of A. I. R. = Other Journals is issued.

A. I. R. Kerala = Other Journals

AIR 1965 Kerla AIR Other Journals	AIR 1967 Kerla AIR Other Journals	AIR 1968 Kerla AIR Other Journals	AIR 1968 Kerla AIR Other Journals
706 (1969) 1 Lab L J 483	225 1969 Ker L T 307	156 73 ITR 356	218 1968 Ker L T 952
210 71 ITR 741		158 1968 Serv L R 1	35 F J R 49
	AIR 1968 Kerla	198 (1969) 1 Lab L J 201	234 1968 Serv L R 137
	AIR Other Journals	206 1968 Ker L T 981	244 (1969) 1 Lab L J 475
	72 1968 Serv L R 413	208 1968 Ker L T 944	262 72 ITR 664
	76 1968 Serv L R 45	1969 Mad L J	330 1969 Mad L J
	105(FB) 1968 Ker L T 1001	(Cri) 83	(Cri) 272

A. I. R. 1969 Kerala = Other Journals

AIR Other Journals	AIR Other Journals	AIR Other Journals	AIR Other Journals
1(FB) [C N 1]	69con. 1968 Ker L R 707	108con. 1968 Ker L J 819	154 [C N 36]
ILR (1968) 1	71 ITR 114	1968 Ker L R 560	(FB) 1968 Ker L T 652
Ker 261	(1969) 1 I T J 565	ILR (1968) 2 Ker 681	ILR (1968) 2 Ker 422
1968 Ker L J 589	73 [C N 16]	1969 Cri L J 484	1968 Ker L J 772
1968 Ker L T 846	1968 Ker L R 377	109 [C N 26]	1968 Ker L R 741
70 ITR 548	1969 Ker L T 151	(FB) 1968 Ker L T 228	163 [C N 37]
(1969) 1 I T J 48	75 [C N 17]	1968 Ker L R 393	(FB) 1968 Ker L T 673
8 [C N 2]	1968 Ker L T 479	ILR (1968) 2 Ker 285	ILR (1968) 2 Ker 385
1668 Ker L T 136	1968 Ker L J 482	111 [C N 27]	1968 Ker L J 908
1968 Ker L J 301	1968 Ker L R 284	1968 Ker L J 335	176 [C N 38]
9 [C N 3]	78 [C N 18]	1969 Mad L J	1968 Ker L T 665
1968 Ker L R 268	1968 Ker L T 578	(Cri) 90	1968 Ker L R 355
11 [C N 4]	79 [C N 19]	1969 Cri L J 486	ILR (1968) 2 Ker 341
(FB) 1968 Ker L T 428	1968 Ker L T 458	1969 Ker L T 351	1968 Ker L J 825
ILR (1968) 2 Ker 29	1968 Ker L R 248	120 [C N 28]	179 [C N 39]
1968 Ker L J 397	1968 Mad L J	1968 Ker L T 511	1968 Ker L T 770
19 [C N 5]	(Cri) 405	1968 Mad L J	1969 Ker L J 759
1968 Ker L J 614	1969 Cri L J 414	(Cri) 485	1968 Ker L R 512
1968 Ker L R 566	81 [C N 20]	1968 Ker L J 643	ILR (1968) 1 Ker 22
21 [C N 6]	(FB) ILR (1968) 2 Ker 1	1969 Cri L J 494	181 [C N 40]
1968 Ker L R 327	1968 Ker L T 800	121 [C N 29] ...	1968 Ker L T 264
23 [C N 7] ...	1968 Ker L J 619	124 [C N 30] ...	1968 Ker L R 188
26 [C N 8] ...	91 [C N 21]	126 [C N 31]	1968 Ker L J 346
29 [C N 9]	(FB) 1968 Ker L T 556	(FB) 1968 Ker L T 495	183 [C N 41]
1968 Ker L T 500	1968 Ker L R 341	1968 Mad L J	1968 Ker L J 789
1968 Mad L J	1968 Ker L J 606	(Cri) 425	1968 Ker L R 656
(Cri) 494	ILR (1968) 2	ILR (1969) 2 Ker 138	1968 Ker L T 969
1969 Cri L J 116	Ker 257	1968 Ker L R 299	ILR (1969) 1 Ker 69
31 [C N 10]	97 [C N 22]	1968 Ker L J 601	185 [C N 42]
ILR (1968) 1 Ker 362	1968 Ker L T 547	1969 Cri L J 611	1968 Ker L R 694
1968 Ker L T 442	1968 Ker L J 573	130 [C N 32]	1969 Ker L T 15
1968 Ker L R 219	1968 Ker L R 454	ILR (1968) 2	ILR (1968) 2 Ker 503
34 [C N 11] ...	1968 Mad L J	Ker 153	188 [C N 43]
36 [C N 12] ...	(Cri) 599	146 [C N 33]	1968 Ker L T 554
38 [C N 13]	99 [C N 23]	1968 Ker L R 677	1969 Mad L J
(FB) ILR (1968) 1	(FB) 1968 Ker L T 589	1968 Ker L J 943	(Cri) 601
Ker 517	1968 Ker L J 252	1969 Mad L J	1968 Ker L J 821
1968 Ker L T 390	1968 Ker L R 384	(Cri) 409	1968 Ker L R 563
1968 Ker L J 664	ILR (1968) 2 Ker 272	1969 Cri L J 615	1969 Cri L J 735
68 [C N 14]	103 [C N 24]	149 [C N 34]	189 [C N 44]
1968 Ker L T 531	(FB) ILR (1968) 2 Ker 125	1969 Ker L T 241	1968 Ker L J 783
1968 Mad L J	1968 Ker L T 583	1969 Ker L R 432	1968 Ker L T 869
(Cri) 492	1968 Ker L J 579	151 [C N 35]	1968 Ker L R 688
1969 Cri L J 393	1968 Ker L R 363	ILR (1969) 1 Ker 62	191 [C N 45]
69 [C N 15]	108 [C N 25]	1969 Cri L J 731	1968 Ker L J 793
1968 Ker L J 422	1968 Ker L T 761		

Other Journals = All India Reporter

ILR (1968)				ILR (1969)				1968 Ker L J				1969 Ker L J				1968 Ker L J			
1 Kerala				1 Kerala				1 Kerala				1 Kerala				1 Kerala			
LB	AIR			ILR	AIR			Gr L J	AIR			Ker L J	AIR			Ker L J	AIR		
17	1969	Ker	38	22	1969	Ker	179	579	1969	Ker	103	1	1969	SO	15	341	1969	Ker	91
				48	"	"	191	586	"	LabIO	225	8	1968	"	1513	355	"	"	176
				62	"	"	151	601	"	Ker	126	14	"	"	1419	363	"	"	103
				69	"	"	183	606	"	"	91	45	"	"	1432	377	"	"	73
				137	"	"	252	619	"	"	81	55	1969	LabIO	225	384	"	"	99
				160	1970	LabIO	88	643	"	"	120	59	1969	Ker	280	393	"	"	109
				211	1969	Ker	313	652	"	"	99	87	1970	"	40	401	"	"	203
				227	1970	"	30	664	"	"	38	80	1969	"	263	433	"	"	244
				253	1969	"	288	721	"	"	203	90	1970	"	36	437	"	"	232
				293	1970	"	1	732	"	"	232	147	1969	"	310	454	"	"	47
				403	1969	"	310	738	"	"	214	151	"	"	308	498	1969	CrilJ	331
				411	1970	"	15	749	"	"	207	181	1970	Ker	16	512	1969	Ker	179
				440	1969	"	280	759	"	"	179	187	1969	Ker	109	516	"	"	213
				455	"	"	265	762	"	"	234	212	1969	SO	255	536	"	"	234
								768	"	"	213	277	"	"	276	542	"	"	211
								772	"	"	154	301	1970	Ker	30	560	"	"	108
								783	"	"	189	340	1969	SO	285	563	"	"	563
								789	"	"	183	344	"	"	343	566	"	"	19
								794	"	"	214	349	"	"	360	575	"	"	207
								799	"	"	191	363	1970	Ker	1	583	"	"	214
								806	"	"	252	413	1969	SO	504	606	"	"	222
								812	"	"	227	436	"	"	378	656	"	"	183
								819	"	"	104	415	1969	LabIO	144	654	"	"	243
								821	"	"	188	555	1970	Ker	27	677	"	"	146
								825	"	"	176					686	"	"	237
								853	"	"	250					688	"	"	

1969 Ker LR																			
Ker L R		AIR		Ker L R		AIR		Ker L T		AIR		Ker L T		AIR		Ker L T		AIR	
40	1970	Ker	36	753	1970	Ker	1	578	1969	Ker	78	815	1969	Ker	191	84	1969	Ker	308
46	1969	Ker	286	835	1969	Ker	243	583	"	"	103	936	"	"	280	114	"	"	238
54	"	"	317	992	1970	Ker	14	589	"	"	99	863	"	"	250	121	"	"	222
98	"	"	246	1000	"	LabIO	88	610	1969	LabIO	225	865	1970	Ker	40	151	"	"	73
108	1970	Ker	16					628	1969	Ker	109	869	1969	"	189	174	1970	Ker	1
118	1969	Ker	263	1968 Ker L T				649	"	SC	378	872	"	"	300	193	1969	Ker	266
123	"	"	252					659	1969	Ker	154	878	"	SC	465	196	"	"	319
131	"	"	310	Ker L T		AIR		665	"	"	176	944	1968	Ker	208	218	1969	SC	93
156	1970	Ker	40	264	1969	Ker	181	669	"	"	234	952	"	"	218	216	"	"	1122
166	1969	Ker	308	390	"	"	38	673	"	"	163	969	1969	Ker	183	241	1969	Ker	149
194	"	"	240	458	"	"	79	701	"	"	203	981	1968	Ker	206	250	"	"	205
221	"	"	316	479	"	"	75	711	"	"	232	1001	"	"	105	275	1970	Ker	30
301	"	"	300	482	"	"	211	718	"	"	244					290	1969	SC	198
397	1970	Ker	30	485	"	"	126	721	1969	SC	869	1969 Ker L T				307	1967	Ker	225
432	1969	Ker	149	507	1969	LabIO	360	725	1969	Ker	213	Ker L T		AIR		320	1969	Ker	304
465	"	"	313	511	1969	Ker	120	781	"	"	108	15	1969	Ker	186	351	"	"	111
471	1969	CriLJ	1577	531	1969	Ker	68	770	"	"	179	60	1970	Ker	15	378	1970	Ker	21
617	1970	Ker	21	547	"	"	97	779	"	"	293	62	"	"	16	444	"	"	27
669	"	"	27	554	"	"	188	794	1969	SC	430	72	1969	Ker	317	655	1969	Ker	246
742	1969	LabIO	1448	556	"	"	91	800	1969	Ker	81					910	"	"	310

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MADHYA PRADESH SECTION

WITH COMPARATIVE TABLES FOR

- (1) I. L. R. MADHYA PRADESH
- (2) JABALPUR LAW JOURNAL
- (3) MADHYA PRADESH LAW JOURNAL
- (4) MADHYA PRADESH WEEKLY REPORTER

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1969

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NOMINAL TABLE

Abdul Mohi Siddiqui v. State Transport Gwalior	(Jan) 13	Esufali, H. M., H. M. Abdulali Siyagunj, Indore v. Commissioner of Sales Tax, M. P. Indore	(July) 134
Amarnath Ajit Kumar v. Commissioner of Sales Tax, Madhya Pradesh	(Oct) 207	Ghanshyamdas Badrilal v. State of Madhya Pradesh	(Sep) 186
Balbhadra Prasad v. State of Madhya Pradesh	(Jan) 15	Gopichand Sarju Prasad v. Union of India	(Oct) 220
Banku Bihari Saha v. State Government of Madhya Pradesh	(Oct) 210	Gwalior Rayon Silk Manufacturing (Weaving) Co. Ltd. v. Income-tax Officer, "A" Ward, Indore	(June) 100
Bhagwati Bai v. Yadav Krishna Awadhiya	(Feb) 23	Gwalior Red Chalk Corporation v. Additional Tahsildar, Pargana Gird, Gwalior	(Mar) 48
Bhilai Hindi Primary School Teachers Association, Bhilai v. Hindustan Steel Ltd., Bhilai Steel Project, Bhilai	(Mar) 43	Gwalior Sugar Co. Ltd. Dabra v. Shyam Saran Gupta and Co., Kanpur	(May) 74
Bikram Bahadur Singh v. Commissioner of Income Tax, M. P. Nagpur	(June) 127	Hirabai Chauhan v. Bhagirathibai	(Dec) 241
Bimla Devi v. Controller of Estate Duty	(Apr) 50	J. B. Mangharam and Co. v. E. S. I. Corporation	(June) 110
Birthare, B. S. v. State of Madhya Pradesh	(Apr) 60	Jagannath Bheraji v. Harisingh Kishanji	(Apr) 56
Central India Electric Supply Co. Ltd., Bilaspur v. Presiding Officer District Labour Court	(Oct) 196	Jagat Singh Choudhury v. M. P. Electricity Board	(May) 65
Central India Machinery Manufacturing Co. Ltd., Gwalior v. Commissioner of Wealth Tax, Nagpur	(Aug) 145	Kalani S. K. and Co. Indore v. Iron and Steel Controller Calcutta	(Feb) 25
Collector, Seoni v. Dadoo Yogen-dra Nath Singh	(Feb) 28	Kodu Panchhi v. Banmali, Mohan Kewat, Jabalpur	(Feb) 20
Commissioner of Income-tax, M. P. v. Badrilal Bholaram, Indore	(Jan) 9	Madhya Pradesh Lac Industries Dhamtari v. Commissioner of Sales Tax, Madhya Pradesh Indore	(Nov) 227
Commissioner of Income Tax, M. P. and Nagpur v. Champalal Sukhram	(May) 72	Madhya Pradesh State Road Transport Corporation, Bairagarh Bhopal v. Regional Transport Authority, Indore	(Sep) 182
Commissioner of Sales Tax, M. P. v. Bombay General Stores Shahdol	(Oct) 213	Madhya Pradesh State Road Transport Corporation Bhopal v. Regional Transport Authority Rewa	(Sep) 183
Controller of Estate Duty, Madhya Pradesh, Nagpur v. Usha Devi Patankar	(Nov) 229	Madhya Pradesh State Road Transport Corporation, Jabalpur v. Jahiram	(May) 89
Dattatraya Dinkar v. State Bank of India	(June) 114	Mamie Bhagwandas Miss v. Controller of Estate Duty, M. P. and Nagpur	(May) 82
Deepchand v. Sukhlal	(Nov) 232	Manmati v. Mohan	(Jan) 7
Dhruva Rao, K. v. Madhya Pradesh Electricity Board	(Oct) 216	Municipal Council, Pandhurna v. R. P. Dube	(Jan) 1 (FB)
Employees of Asbestos Cement Ltd., Kymore v. Industrial Court Madhya Pradesh, Indore	(Dec) 248		

Municipal Council, Raipur v. Bishandas Nathumal	(Aug) 147	Rameshwar Prasad v. Krishna Mohanath Raina	(Jan) 4
Nandal Bhandari Mills Ltd. Indore v. Madhya Pradesh Electricity Board	(June) 105	Ratanlal v. State Transport Appellate Authority Madhya Pradesh	(Oct) 204
New India Insurance Co. Ltd. Bombay v. Smt. Molia Devi	:(Sep) 190	Rewa Coal Fields Ltd., Dhanpuri, Shahdol v. Central Govt. Industrial Tribunal-cum-Labour Court, Jabalpur	(Sep) 174
New Precision (India) Pvt. Ltd. Dewas v. Commissioner of Income-tax, Madhya Pradesh, Nagpur	(May) 68	Sagar Motor Transport Karmchhari Union, Sagar v. Amar Kamgar Passenger Transport Co. Co-operative Society, Sagar, M. P.	(Mar) 46
Orient Paper Mills Ltd. Amlai v. Commissioner of Sales Tax, Madhya Pradesh	(Apr) 53	Sher Singh v. State Transport Authority, Gwalior	(May) 92
Ozha N. H. and Co. (Pvt.) Ltd. Jamkunda Colliery v. Union of India	(July) 141	Sital Sukhram v. Central Government Industrial Tribunal	(Oct) 200
Pal, J. K. v. State of Madhya Pradesh	(July) 143	Sitaram Barelal v. State of Madhya Pradesh	(Dec) 252
Piarelal Khuman v. Bhagwati Prasad Kanhayalal	(Mar) 35	State of Madhya Pradesh v. Ram Charan Kishan	(May) 96
Poonamchand Bansidhar v. Ramprasad Gopilal Sarda	(Mar) 44	Sugandhi v. Collector, Raipur	(May) 78
Raipur Transport Co. Pvt. Ltd. Raipur v. State of Madhya Pradesh	(Aug) 150	Sugga Bai v. Hiralal	(Feb) 32
Ramashanker Parmanand v. Jugalkishore Ramasahaya	(Dec) 243	Sukhlal Sen v. Collector District Satna	(Sep) 176
Rameshwar v. Industrial Court, Madhya Pradesh	(Apr) 62	Surendra Kumar Patel v. University of Jabalpur	(Nov) 234
		Thakurain Dulaiya v. Shivnath Punjabi	(July) 130

SUBJECT INDEX

Arbitration Act (10 of 1940), S. 2 — Arbitration clause in an agreement — Enforcement of — *See* Constitution of India, Art. 226

(June) 105B

— **Ss. 32, 34** — Suit for complete partition of Hindu joint family — Existence of arbitration agreement between coparceners in respect of part of the property — Suit neither barred nor can be stayed (Jan) 7A

— **S. 32** — Suit filed for partition and separate possession of joint family property — Mere mention of arbitration agreement and award in plaint does not bar the suit — Burden is on defendant to plead necessary facts in support of the bar set up by them

(Jan) 7B

— **S. 34** — Suit for complete partition of Hindu joint family — Existence of arbitration agreement between coparceners respecting part of property — Suit neither barred nor can be stayed — *See* Arbitration Act (10 of 1940), S. 32 (Jan) 7A

— **S. 46** — Arbitration clause in an agreement — Whether can be enforced — *See* Constitution of India, Art. 226 (June) 105B

Central Provinces and Berar Letting of House and Rent Control Order (1949)

See under Houses and Rents.

Central Provinces and Berar Municipalities Act (2 of 1922)

See under Municipalities.

Central Provinces and Berar Regulation of Letting of Accommodation Act (11 of 1946)

See under Houses and Rents.

C. P. and Berar Sales Tax Act (21 of 1947)

See under Sales Tax.

Central Sales Tax Act (74 of 1956)

See under Sales Tax.

Central Sales Tax (Registration and Turnover) Rules (1957)

See under Sales Tax.

Civil Procedure Code (5 of 1908), Pre. — Interpretation of Statutes — Retrospective effect — *See* Mines and Minerals (Regulation and Development) Act (1957), S. 25 (Mar) 48

— **Pre.** — Interpretation of Statutes — Principle of ejusdem generis — When applies — *See* Companies Act (1956), S. 439 (May) 74B

— **Pre.** — Interpretation of Statutes — Statutes creating new jurisdiction and providing for a new procedure — Rule of con-

Civil P. C. (contd.)

struction — *See* Motor Vehicles Act (4 of 1939), S. 96 (2) (6) (May) 88A

— **Pre.** — Interpretation of Statutes — Meaning of words — Words "and" and "or" — Use of (Aug) 147A

— **Pre.** — Interpretation of Statutes — Use of word "false" in statute — Whether used in wider or restricted sense — Depends upon context in which word is used — *See* Sales Tax — Central Sales Tax Act (1956), S. 10 (b) (Oct) 213

— **Pre.** — Maxims — "Expressio unius est exclusio alterius" — *See* States Reorganisation Act (1956), S. 115 (7) (July) 143B

— **Ss. 9, 115 and 21** — Court trying suit of small cause nature on regular side — Objection to jurisdiction of Court to try suit of small cause nature not taken in lower Courts — Held that the decree passed was without jurisdiction and a nullity and that the objection to jurisdiction could be taken for the first time in revision. Civil Revn. No. 208 of 1966, D/- 10-4-1967 (Madh Pra), **Overruled**

(Mar) 44A

— **Ss. 10, 11 and 47** — Null and void decree — Effect of (Mar) 35B

— **Ss. 11 and 47** — Res judicata — Applicability to execution proceedings — Principle applies to execution proceedings — Finding given at one stage cannot be challenged at any later stage of the same proceedings

(Mar) 35A

— **S. 11** — Null and void decree do not operate as res judicata — *See* Civil P. C. (1908), S. 100 (Mar) 35B

— **S. 11** — Principles of res judicata are not applicable to administrative orders — *See* Industrial Disputes Act (1947), S. 10 (1)

(Sep) 174

— **S. 21** — Suit of small cause nature tried on regular side — Objection to jurisdiction not taken in lower Courts — Could be taken for the first time in revision — *See* Civil P. C. (1908), S. 9 (Mar) 44A

— **S. 24 (4)** — Regular Court when can try small cause suit — *See* Provincial Small Cause Courts Act (1887), S. 16 (Apr) 56A

— **S. 47** — Res judicata — Applicability to execution proceedings — *See* Civil P. C. (1908), S. 11 (Mar) 35A

— **S. 47** — Null and void decree — Effect of — *See* Civil P. C. (1908), S. 10 (Mar) 35B

— **S. 47** — Question of jurisdiction — Power of Civil Court and of Tribunal with limited jurisdiction — Distinction — Question whe-

Civil P. C. (contd.)

ther S. 28 of M. P. Abolition of Proprietary Rights Estates, Mahals and Alienated Lands Act applies — Executing Court, held, has jurisdiction to decide (Mar) 35D

—S. 107—Regular Court, when can try small cause suit — objection to jurisdiction — See Provincial Small Cause Courts Act (1887), S. 16 (Apr) 56A

—S. 115—Objection to jurisdiction—Can be taken for the first time in revision — See Civil P. C. (1908), S. 9 (Mar) 44A

—S. 115 and O. 46, R. 7 — Court acting without jurisdiction in trying suit of small cause nature on regular side—Revision—No reference made under O. 46, R. 7 — High Court will set aside decree and order its presentation to proper Court and not examine case on merits (Mar) 44B

—S. 115 — Objection to jurisdiction of Court can be taken in appeal or revision. C. R. No. 377 of 1966, D/- 29-3-67 (M.P.) and C. R. No. 208 of 1966, D/- 10-4-67 (M. P.), Overruled — See Provincial Small Cause Courts Act (1887), S. 16 (Apr) 56A

—O. 2, R. 2—Suit for partition—Omission to ask for future mesne profits, if barred under O. 2, R. 2—See Civil P. C. (1908), O. 6, R. 17 (Nov) 232

—O. 6, R. 2—Object of pleadings — Claim under S. 66 of Employees' State Insurance Act — Issue whether the die is a dangerous part of machinery is not different from the issue whether the die needed a guard in view of S. 21 of Factories Act—Non-raising of former issue — Defendant, held not prejudiced (June) 110A

—O. 6, R. 2 and O. 14, R. 1 — Omission to frame issue on particular aspect of matter in dispute—Matter covered by general issue — Parties fully knowing and understanding what the real issue was and adducing evidence in support of their contentions—Held there was, even in absence of specific issue, no mis-trial such as might vitiate decision — None of the parties could be regarded as having been taken by surprise or prejudiced in any manner (Dec) 241A

—O. 6, R. 17, O. 20, R. 12, O. 2, R. 2 — Suit for partition and separate share — Omission to ask for future mesne profits in plaint—Inclusion of that relief in plaint by way of amendment—When can be allowed (Nov) 232

—O. 6, R. 17—Election petition—Amendment of—When can be allowed—Principles stated — See Representation of the People Act (1951), S. 86 (5) (Dec) 243B

—O. 14, R. 1—Omission to frame issue on particular aspect of matter—Matter covered by general issue — Parties knowing and

Civil P. C. (contd.)

understanding real issue and adducing evidence—No mis-trial such as might vitiate decision—See Civil P. C. (1908), O. 6, R. 2 (Dec) 241A

—O. 20, R. 12—Suit for partition — Omission to ask for future mesne profits — Inclusion of that relief in plaint by way of amendment—When can be allowed—See Civil P. C. (1908), O. 6, R. 17 (Nov) 232

—O. 23, R. 3—Settlement before a labour Court stands on a different footing — See Industrial Disputes Act (1947), S. 2 (b) (Oct) 200

—O. 46, R. 7—Suit of small cause nature tried as regular suit—Revision—No reference under O. 46, R. 7—High Court will set aside decree and order its presentation to proper Court and not examine case on merits—See Civil P. C. (1908), S. 115 (Mar) 44B

—O. 47, R. 1 — Review of administrative order permissible—See Industrial Disputes Act (1947), S. 10 (1) (Sep) 174

CIVIL SERVICES

—Civil Services (Classification, Control and Appeal) Rules, R. 55—Domestic enquiry not made in compliance with prescribed Regulations—Enquiry into charges can be made by Labour Court itself — See M. P. Industrial Relations Act (27 of 1960), S. 31 (3) (May) 65A

—R. 55—Order of reversion—Order on face of it regular and not containing any stigma — Confidential reports cannot be looked into to find out whether employee in some manner was stigmatised and punished (Oct) 216B

—R. 55—Oral inquiry—When necessary (Oct) 216C

—Fundamental Rules, Rr. 9 (13), 14 and 14A—Lien — Government servant confirmed on permanent post of lower division clerk in Forest Department—Afterwards his services transferred to Jail Department but not substantively—At the time of transfer the servant himself giving voluntary declaration that he would not claim any lien on his permanent post of Forest Department — Later on his services in Jail Department terminated "as no longer required" and replaced at disposal of Forest Department—Forest Department taking view that because the servant had voluntarily undertaken not to claim lien on his post in Forest Department, he had no right of reappointment on his former post — Held that refusal to replace him on his permanent post contravened Rr. 14 and 14A of the

Civil Services—Fundamental Rules (contd.)
Fundamental Rules which continued to be operative and effective as laws in force by virtue of Art. 313 of the Constitution and are statutory provisions (Apr) 60B

—*R. 14*—Transfer of Government servant from permanent post—Voluntary declaration by him that he would not claim lien on his permanent post—Refusal to replace him on permanent post contravenes *Rr. 14* and *14A*—*See Civil Services—Fundamental Rules, R. 9 (13)* (Apr) 60B

—*R. 14-A*—Transfer of Government servant from permanent post—Voluntary declaration by him that he would not claim lien on his permanent post—Refusal to replace him on his permanent post contravenes *Rr. 14* and *14A*—*See Civil Services—Fundamental Rules, R. 9 (13)* (Apr) 60B

—**Madhya Pradesh Unification of Pay Scales and Fixation of Pay on Absorption Rules (1959), *Rr. 4, 6***—Employee is bound by terms of employment given to him or by those that he subsequently accepted, either expressly or by necessary implication—He cannot be prejudiced by any reservation not communicated to him (July) 143C

—*R. 6*—*See Civil Services—Madhya Pradesh Unification of Pay Scales and Fixation of Pay on Absorption Rules (1959), R. 4* (July) 143C

—**State Bank of India (Sub-accountants and Head Cashiers) Service Rules (1959), *R. 18 (1)***—Rules are bye-laws—*R. 18 (1)* and *Cls. 3, 4, 7* and *10* of agreement are not unreasonable (Jun) 114A

—*R. 18 (1)*—Responsibility under—Arises only when other means of recovery fail (Jun) 114B

Civil Services (Classification, Control and Appeal) Rules

See under Civil Services.

Companies Act (1 of 1956), S. 243—Expression “other persons” in Form No. 48—Cannot be limited to Company, Registrar, or other person authorised by Central Government in a case falling under the section—*See Companies Act (1956), S. 439* (May) 74A
—*Ss. 439 and 243*—Companies (Court) Rules (1959), *R. 99* and Form No. 48—Expression “other persons” in Form 48—Whether restricted to those enumerated in *S. 439* (May) 74A

—*S. 439*—Companies (Court) Rules (1959), *R. 99*, Form No. 48—Words ‘other persons’ in Form 48—Construction—Rule of ejusdem generis—When applies (May) 74B

Companies (Court) Rules (1959), *R. 99*—Expression “other persons” in Form No. 48—Connotation of—*See Companies Act (1956), S. 439* (May) 74A

—*R. 99*—Words “other persons” in Form No. 48—Construction of—*See Companies Act (1956), S. 439* (May) 74B

—Form No. 48—“Other persons”—Construction of—*See Companies Act (1956), S. 439* (May) 74B

Contract Act (9 of 1872), S. 10—Agreement—Construction—Arbitration clause—Whether attracted—*See Constitution of India, Art. 226* (June) 105B

Constitution of India, Art. 14—Discrimination—Difference between scales of pay of those teaching in Hindi Primary Schools and those teaching in English Primary Schools—Though both may be said to be doing the same work difference in scales of pay cannot be said to be violative of Art. 14 (Mar) 43A

—*Art. 14*—*S. 297 (2) (f)* of Income-tax Act (1961) not violative of Art. 14—(1967) 64 I T R 637 (Bom), Diss. from—*See Income-tax Act (1961), S. 297 (2) (f) & (g)* (Oct) 220A

—*Art. 16*—Teachers in Hindi Primary Schools and English Primary Schools—Qualifications, method of recruitment and avenues of promotion different in respect of Hindi and English School teachers—Held Hindi and English teachers formed two distinct and separate classes and hence disparity in chances of promotion between the two could not be said to be contrary to Art. 16 (Mar) 43B

—*Art. 19 (1)*—Cancellation of licence under *S. 31*, Central Provinces Excise Act—Authorities must act judicially—*See M. P. Excise Act (2 of 1915), S. 31 (1)(b)* (Sep) 176A

—*Art. 166*—Allocation of business—Specific scheme under *S. 68B*, Motor Vehicles Act (1939), not necessary to be allotted—Allocation of subject matter is enough—*See Motor Vehicles Act (1939), S. 68-D* (Aug) 150D

—*Art. 166 (3)*—Executive functions involving quasi judicial and quasi executive functions—Quasi judicial functions can be delegated as part of executive functions—*See Motor Vehicles Act (1939), S. 68-D (2)* (Aug) 150B

—*Art. 166 (3)*—Rules of Business—In framing the Rules, the Governor cannot override the statutory provisions relating to a particular function or business (Aug) 150C

—*Art. 217 (2)*—Additional District Judge if not qualified to be a High Court Judge if

Constitution of India (contd.)

can be appointed to act as Motor Vehicles Accident Claims Tribunal — *See* Motor Vehicles Act (1939), S. 110 (3) (Sep) 190A

— *Art. 226* — Writ of habeas corpus — When can be issued — Custody of minor child — Proper remedy — Guardian's claim to custody of child — Nature of right — Welfare of minor should be paramount consideration (Feb) 23A

— *Art. 226* — Joint Plant Committee constituted after withdrawal of control on certain categories of iron and steel goods covered by Iron and Steel (Control) Order 1956 — Is not amenable to writ jurisdiction — Writ does not lie — *See* Iron and Steel (Control) Order, 1956 (Feb) 25

— *Art. 226* — New point — Point not raised before relevant authority — Cannot be allowed to be raised (May) 65B

— *Art. 226* — Land Acquisition Act (1894), S. 18 (3) (as inserted by S. 3 of C. P. and Berar Act 7 of 1949) — Refusal by Collector to make reference — Applicant's failure to avail of remedy under S. 18 (3) — Writ not barred (May) 78C

— *Art. 226* — Contract Act (1872), S. 10 — Agreement — Construction — Arbitration clause of Agreement between Electricity Board and consumers excluding from its purview "a dispute regarding recovery of charges for energy consumed and any other charges such as minimum charges, miscellaneous or other charges" — Dispute whether Board is entitled to recover surcharge and fuel adjustment charge is "a dispute regarding recovery of other charges" within word of exclusion in clause — Arbitration clause held not attracted — Further, provisions of Arbitration Act (1940) being expressly made applicable by Arbitration Clause, no directions can be issued by High Court to Board for referring the matter to arbitration — Petitioners can pursue remedies provided in that Act for enforcing arbitration (Jun) 105B

— *Arts. 226 and 227* — Statutory rules and bye-laws — Power of Courts — If the rules are statutory rules, they cannot be declared to be invalid on account of unreasonableness — All that the Court can do is to see whether the authority making a rule has the power to make the rule — If the rules are bye-laws they can be declared invalid on the ground of unreasonableness (June) 114C

— *Art. 226* — Quasi-judicial and administrative decisions — Distinction between — Quasi-judicial decision is nothing but an administrative decision some stage of which possesses judicial characteristics (Aug) 150A

— *Art. 226* — Administrative order — Review

Constitution of India (contd.)

is possible — *See* Industrial Disputes Act (1947), S. 10 (1) (Sep) 174

— *Art. 226* — Cancellation of licence under S. 31, Central Provinces Excise Act — Authorities must follow principles of natural justice — *See* M. P. Excise Act (2 of 1915), S. 31 (1) (Sep) 176A

— *Art. 226* — Alternative remedy — Discretion — Licence for sale of liquor cancelled by Collector under S. 31 (1) (b) of C. P. Excise Act — Principles of natural justice not followed — Held, that the defect was fundamental and it would not be sound exercise of discretion to refuse to interfere simply on the ground that the petitioner could have gone up in appeal (Sep) 176B

— *Art. 226* — Alternative remedy — Question of discretion — Order of R. T. A. in excess of jurisdiction — Alternative remedy by way of appeal under S. 64, Motor Vehicles Act available to petitioner — Held, it would not be sound exercise of its discretion to refuse interference on that ground (Sep) 183B

— *Art. 226* — Award by Labour Tribunal — Interference possible in proper cases — Ss. 18 and 36 of Industrial Disputes Act place no bar — *See* Industrial Disputes Act (1947), S. 2 (b) (Oct) 200

— *Art. 226* — Universities — Principles of natural justice — Examinee caught redhanded while using unfair means — Examinee refusing to give explanation and walking out of examination hall — Held on facts that examinee had due opportunity of explaining his conduct : AIR 1957 Bom 246 Held not good law in view of AIR 1962 S C 1110 (Nov) 234A

— *Art. 227* — Statutory rules and bye-laws — Powers of Courts — *See* Constitution of India, Art. 226 (Jun) 114C

— *Art. 227* — Award by Labour Tribunal — Interference possible in proper cases — Sections 18 and 36 of Industrial Disputes Act place no bar — *See* Industrial Disputes Act (1947), S. 2 (b) (Oct) 200

— *Art. 236* — Definition under, of District Judge — Not useful in interpreting the expression occurring in Motor Vehicles Act (1939) — *See* Motor Vehicles Act (1939), S. 110 (3) (Sep) 190A

— *Art. 254 (2)* — Dispute between Co-operative Society and its employees — Section 55 (2), M. P. Co-operative Societies Act must prevail over provisions of Industrial Disputes Act — *See* Co-operative Societies — M. P. Co-operative Societies Act (17 of 1961), S. 55 (2) (Mar) 46

— *Art. 309* — Order creating new scales of pay to the disadvantage of permanent employees — Order is not a rule framed under

Constitution of India (contd.)

Art. 309 — See States Reorganisation Act (1956), S. 115 (7) (July) 143B

—Art. 311—Lien on permanent post — See Fundamental Rules, R. 9 (13) (Apr) 60B

—Art. 311—Scope—Employees of statutory corporation—Not entitled to invoke Art. 311 but can invoke statutory regulations governing their conditions of service (Oct) 216A

—Art. 311—Order of reversion—On face of it not containing stigma — Confidential reports cannot be gone into to find if stigma is there — See Civil Services—Civil Service (Classification, Control and Appeal) Rules (1930), R. 55 (Oct) 216B

—Art. 311 (2)—Temporary or officiating appointment—Such appointment is liable to be terminated without notice—Order of termination or reversion is not punishment — Order is not assailable as offending Art. 311 (2) (Apr) 60A

—Art. 313—Lien on permanent post — See Fundamental Rules, R. 9 (13) (Apr) 60B

—Art. 366 (17)—Word 'pension'—What it signifies—See Merged States (Taxation Concessions) Order (1949), Paragraph 13 (3) (June) 127B

CO-OPERATIVE SOCIETIES

—M.P. Co-operative Societies Act (17 of 1961), Ss. 55 (2), 93—Dispute between Co-operative Society and its employees—Registrar, under S. 55 (2) alone can adjudicate—Reference to Labour Court under S. 10 (1) of Industrial Disputes Act (1947) is illegal (Mar) 46

—S. 93—Omission of reference under to Industrial Disputes Act — Does not make it applicable to Society registered under the Act—See Co-operative Societies—M. P. Co-operative Societies Act (17 of 1961), S. 55 (2) (Mar) 46

Criminal Procedure Code (5 of 1898), S. 204 (3) — Dismissal of complaint under S. 204 (3) on failure of complainant to comply with direction — Appeal against order is competent—See Criminal P. C. (1898), S. 417 (Feb) 20A

—S. 204 (3)—"Talbana" ordinarily means process fee — Magistrate dismissing complaint for failure to pay diet money in accordance with Court's direction to pay Talbana," interpreting the word to include diet money also—Order neither indicating any provision wherein that word has been used to include diet money or that it is the practice of that Court to so use it and that the parties were acquainted with that expression to include diet money as well—Held

Criminal P. C. (contd.)

that the drastic action of the magistrate in 'dismissing' the complaint could not be justified or sustained (Feb) 20B

—S. 256—Dismissal of complaint after framing of charge, on failure of complainant to comply with directions—Appeal against order is competent — See Criminal P. C. (1898), S. 417 (Feb) 20A

—S. 256—Recall of prosecution witnesses for further cross — Payment of expenses of prosecution witnesses — Offence charged bailable and non-cognizable—Held that in the case the complainant should bear the expenses—See Criminal P. C. (1898), S. 544 (Feb) 20C

—Ss. 417, 204 (3) and 256—Accused pleading not guilty and desiring the presence of prosecution witnesses for further cross-examination—Magistrate ordering summons to be issued directing complainant to pay diet money—Dismissal of complaint under S. 204 (3) on failure of complainant to comply with direction—Appeal against order is competent as the dismissal of complaint after charge has been framed amounts to acquittal (Feb) 20A

—S. 491—Custody of minor—Application for—Availability of alternative remedy is not a bar (Feb) 23B

—Ss. 544 and 256—Recall of prosecution witnesses for further cross-examination — Payment of expenses of prosecution witnesses—Prosecution under S. 497, Penal Code —Offence being bailable and non-cognizable, having no direct nexus with public interest, question whether government should pay travelling allowances and subsistence allowances of witnesses summoned is under R. 558 (a) (ii) of Rules and Orders (Criminal) framed by the Madhya Pradesh High Court for the subordinate Courts to decide—Held that in the case the complainant should bear the expenses—Scope of R. 558, indicated (Feb) 20C

EDUCATION

—Jabalpur University Act (22 of 1956), Ordinance No. 75, Art. 3—Scope—Power of debaring delinquent examinee at future examinations is only in relation to "the examination" in which he had used unfair means (Nov) 234B

—Universities — Use of unfair means by examinee — Principles of natural justice—See Constitution of India, Art. 226

Electricity (Supply) Act (54 of 1948), S. 49 (before and after its amendment by Act 30 of 1966) and S. 59 — Electricity (Supply) Amendment Act (30 of 1966), S. 24—Board's power to fix, from time to time, rates of supply of electricity to consumers—Imposition of surcharge before enactment of new S. 49—Validity — Effect of S. 24 of Amendment Act — Board can make uniform tariff applicable for the whole State (June) 105A
 —S. 59 — Board has power to fix rates of supply of electricity to consumers, from time to time — See Electricity (Supply) Act (1948), S. 49 (before and after its amendment by Act 30 of 1966) (June) 105A

Electricity (Supply) Amendment Act (30 of 1966), S. 24 — Effect of — See Electricity (Supply) Act (1948), S. 49 (June) 105A

Employees State Insurance Act (34 of 1948), S. 82 (2) — Question whether a part of a machinery is dangerous within meaning of Factories Act — Appeal to High Court from order of Employees Insurance Court—Maintainability (June) 110B

Essential Commodities Act (10 of 1955), Ss. 7 and 8 — Inter Zonal Wheat and Wheat Products (Movement Control) Order 1964, Ss. 6, 3 and 4—Offence under—Attempt to commit is equally an offence — Preparation and attempt — Distinguished. 1962 (1) Cri L J 830, Diss. (May) 96

—S. 8 — Offence under—Attempt to commit is equally an offence — See Essential Commodities Act (1955), S. 7 (May) 96

Estate Duty Act (34 of 1953), S. 2 (15)—Cash grant in lieu of landed jagir — Nature of — See Estate Duty Act (1953), S. 5 (1) (Nov) 229

—Ss. 5 (1), 2 (15) — Cash grant in lieu of landed jagir—Nature of—Whether heritable — Onus — Deceased holding cash grant only for his life — It is not liable to Estate Duty — Word "passes" in S. 5 (1)—Meaning of (Nov) 229

—S. 7—Debt due to deceased—Cannot be excluded from Estate Duty solely because it had become barred by time — Though right to recover such debt is extinguished by law of limitation, debt itself is not extinguished (Apr) 50C

—S. 13 — National Savings Certificates purchased by deceased jointly in his and wife's name — Deceased's will purporting to gift away absolutely such certificates but not transferred to her name exclusively — S. 13 applies and such amount cannot be excluded from the property passing on death of deceased (Apr) 50A

Estate Duty Act (contd.)

—S. 14 (1) — Insurance policies on life of deceased and assigned to wife—Policies kept up by regular payment of premium wholly for her benefit — Entire amount of policies must be deemed to have passed on deceased's death—Burden of proving that such policies did not pass on the death of the assured is on the person accountable (Apr) 50B

—S. 17—Applicability of (May) 82B

—S. 17 — Estate Duty (Controlled Companies) Rules (1953), R. 11 — Purpose of the rule is to give relief from double charge of estate duty (May) 82C

—Ss. 17 (1) (2), 20 (1)—Estate Duty (Controlled Companies) Rules (1953), R. 11 (3) (b) and (9) (b) — Deceased Managing Director getting remuneration but no dividend—Remuneration received by him in excess has to be treated as share benefit under R. 11 (9) (b) for purposes of R. 11 (3)—Value of shares has to be deducted in determining 'slice' under S. 17 (2) (May) 82A

—S. 20 (1)—Deceased a Managing Director of Company, holding shares in it—Determination of slice of the Company's assets passing on death under S. 17 (2) — Value of shares has to be deducted — See Estate Duty Act (1953), S. 17 (1) (2) (May) 82

Estate Duty (Controlled Companies) Rules (1953), R. 11—Purpose of the rule is to give relief from double charge of estate duty — See Estate Duty Act (1953), S. 17 (May) 82

—R. 11 (3) (b)—Deceased Managing Director getting remuneration but no dividend on shares — Remuneration received by him in excess has to be treated as share benefit under R. 11 (9) (b) for purposes of R. 11 (3) — See Estate Duty Act (1953), S. 17 (1) (2) (May) 82

—R. 11 (9) (b) — Share benefit under — Determination — See Estate Duty Act (1953), S. 17 (1) (2) (May) 82

Evidence Act (1 of 1872), S. 3 — "Proved" — Best judgment assessment — Quantum of escaped turnover — Proof of—See Sales Tax — M. P. General Sales Tax Act (1958) (2 of 1959), S. 19 (1) (July) 134A

—Ss. 90, 114 — Will more than fortyfive years old—Will rational in character having made in favour of trust and dependent widows well provided for — Presumption is that testator was of sound mind at time of execution—Proof of handwriting of attesting witnesses sufficient to prove soundness of mind of executor (Jan) 4B

—Ss. 101-104 — Suit for partition of joint family property — Mere mention of arbitration agreement and award does not bar the

Evidence Act (contd.)
 suit — Burden to plead necessary facts in support of bar set up is on the defendant — See Arbitration Act (10 of 1940), S. 32

(Jan) 7B
 — Ss. 101 to 104 — Inadequacy of compensation awarded for acquisition — Onus of proof is on claimant for higher compensation — See Land Acquisition Act (1894), S. 11 (Feb) 28A

— Ss. 101 to 104 — Insurance policies on life of deceased and assigned to wife — Policies kept up by regular payment of premium wholly for her benefit — Burden of proving that policies did not pass on death of assured is on person accountable — See Estate Duty Act (1953), S. 14 (1) (Apr) 50B

— Ss. 101-104 — Cash grant in lieu of landed jagir — Whether, heritable — Onus — See Estate Duty Act (1953), S. 5 (1) (Nov) 229

— S. 114 — Will more than fortyfive years old — Presumption as to soundness of testator's mind at time of execution — See Evidence Act (1872), S. 90 (Jan) 4B

— S. 114 — Existence of industrial dispute — Reference reciting satisfaction of Government — Regularity of reference must be presumed — See M. P. Industrial Relations Act (27 of 1960), S. 51 (Dec) 248B

— S. 115 — C. P. and Berar Regulation of Accommodation Act (23 of 1946), S. 2 — C. P. and Berar Letting of Houses and Rent Control Order, 1949, Cl. 12-A — Prohibition under, to sublet accommodation except by written permission of landlord — Tenant subletting accommodation only with oral permission — Subletting is unlawful — Oral permission by landlord cannot operate as waiver of benefit of prohibition — He is not estopped from pleading that subletting is unlawful (July) 130C

— S. 116 — Tenant denying title of landlord — Permissible limits — If denial is in permissible limits, estoppel cannot be applied to tenant — See T. P. Act (1882), S. 111 (g) (Feb) 32D

Factories Act (63 of 1948), S. 21 — Word 'dangerous' — Meaning of — Machinery or part thereof, when dangerous — Test — The die is dangerous part of machine requiring guard (June) 110C

Fundamental Rules

See under Civil Services.

General Clauses Act (10 of 1897), S. 3(17) — District Judge — Definition given in Art. 236 of Constitution has no relevance in interpreting it in Motor Vehicles Act — See Motor Vehicles Act (1939), S. 110(3) (Sep) 190A

— S. 15 — No bar to appointment of any

General Clauses Act (contd.)
 persona designata by official designation — See Motor Vehicles Act (1939), S. 110(3) (Sep) 190A

Government of India Act (1935), (26 Geo. V and 1, Edn. VIII C(2), S. 107(2) — C. P. and Berar Letting of Houses and Rent Control Order (1949) falls under Entry 21, List II, Sch. VII and is not ultra vires — See Houses and Rents — C. P. and Berar Regulation of Letting of Accommodation Act (11 of 1946), S. 6 (July) 130A

— Sch. 7, List II, Entry 21 — C. P. and Berar Letting of Houses and Rent Control Order (1949) falls within Entry 21 and is not ultra vires — See Houses and Rents — C. P. and Berar Regulation of Letting of Accommodation Act (11 of 1946), S. 6 (July) 130A

Guardians and Wards Act (8 of 1890), S. 17 — Custody of minor child — Nature of right — Considerations — See Constitution of India, Art. 226 (Feb) 23A

HIGH COURT RULES AND ORDERS

— **Madhya Pradesh High Court Rules and Orders (Criminal), R. 558** — Scope of, indicated — See Criminal P. C. (5 of 1898), S. 544 (Feb) 20C

Hindu Law — Bombay School — Applicability — Lex loci — Parties claiming to be Maharashtra Mahars — Indications that their ancestors immigrated from Bombay region into Nagpur and Berar plain, though migration in sense of its exact origin not proved — Family retaining its identity as Maharashtra by clinging to its language, dress, social customs and manners, mode of worship and like — Until contrary is shown presumption would be that the family had migrated from Bombay region — Presumption being not rebutted, parties held governed by Bombay School of Hindu law (Dec) 241B

— Joint family property partition — See Arbitration Act (10 of 1940), S. 32 (Jan) 7A

Hindu Minority and Guardianship Act (32 of 1956), S. 6 — Custody of minor child — Writ of habeas corpus — When can be issued — See Constitution of India, Art. 226 (Feb) 23A

— S. 8 — Joint interest of minor in family property — Manager disposing of it for benefit of minor or family need — S. 8 does not apply to such transaction (Feb) 32A

HOUSES AND RENTS

— **C. P. and Berar Letting of Houses and Rent Control Order (1949), Cl. 12-A** — Clause is not

Houses and Rents—C. P. & Berar Letting of

Houses and Rent Control Order (contd.)
 ultra vires—S. A. No. 357 of 1962, D/- 27-11-1962 (M P), **Overruled.** A I R 1959 Bom 98, Diss. from—*See* Houses and Rents—C. P. and Berar Regulation of Letting of Accommodation Act (11 of 1946), S. 6 (July) 130A

—*Cl. 12.A*—Permission to sub-let must be in writing—*See* Evidence Act (1872), S. 115 (July) 130C

—*Cl. 13*—Suit for eviction filed in 1953 when Control order (1949) was in force—During pendency of suit Act 23 of 1955 came to be applied to Jabalpur region in 1959—Suit filed without permission of Rent Controller held maintainable—Landlord at the most would be liable for prosecution under Cl. 13 of the Control Order—*See* Houses and Rents—M. P. Accommodation Control Act (23 of 1955), S. 11 (Feb) 32B

—**C. P. and Berar Regulation of Letting of Accommodation Act (11 of 1946), S. 2**—Cl. 12A of C. P. and Berar Letting of Houses and Rent Control Order, 1949, is not ultra vires—*See* Houses and Rents—C. P. and Berar Regulation of Letting of Accommodation Act (11 of 1946), S. 6 (July) 130A

—**S. 2**—Permission of landlord to sub-let must be in writing—*See* Evidence Act (1872), S. 115 (July) 130C

—**Ss. 6, 2**—Orders under S. 2—C. P. and Berar Letting of Houses and Rent Control Order, 1949, Cl. 12A—Validity of—Not ultra vires or unconstitutional—S. A. No. 357 of 1962, D/- 27-11-1962 (M P), **Overruled.** A I R 1959 Bom 98, Diss. from (July) 130A

—**M. P. Accommodation Control Act (23 of 1955), S. 4, Cl. (e), Proviso**—Protection of sub-letting of accommodation under—Not available to unlawful subletting (July) 130B

—**S. 4 (f)**—T. P. Act (1882), S. 111 (g)—Determination of lease—Second clause of S. 111 (g), T. P. Act in conflict with S. 4 (f)—S. 4 (f) stands and second clause of S. 111 (g) stands abrogated after 1-1-1959 (Feb) 32C

—**S. 11**—C. P. & Berar Letting of Houses and Rent Control Order (1949), Cl. 13—Suit for eviction filed in 1953 when Control Order (1949) was in force—During pendency of suit Act 23 of 1955 came to be applied to Jabalpur region in 1959—Suit filed without permission of Rent Controller held maintainable—Landlord at the most would be liable for prosecution under Cl. 13 of the Control Order (Feb) 32B

Income-tax Act (11 of 1922), Ss. 10 (2) (vi) (a) (b) and (c) and 10 (2) (vi.a)—Depreciation of assets in manufacture of machinery components not to be taken into account in wealth tax assessment—*See* Wealth Tax Act (1957), S. 7 (2) (a) (Aug) 145

—**S. 14**—Allowance granted to assessee for giving him privileges not pension—No exemption from income-tax can be claimed for such allowance—*See* Merged States (Taxation Concessions) Order (1949), Paragraph 13 (3) (June) 127B

—**S. 16 (3) (a) (ii)**—Minor—Admission to benefits of partnership—Income accruing to minor and interest earned by him as also interest on profits credited to minor are assessable in the total income of the guardian—When such income is neither direct nor indirect result of admission to benefits of partnership, then it is not assessable (Jan) 9A

—**S. 28 (1)**—Income-tax Act (1961), S. 271 (1) (c)—Penalty proceedings under S. 271 (1) (c), Income-tax Act, 1961 for defaults referred to in S. 28 (1) of Income-tax Act, 1922 in respect of assessment year ending 31-3-1962—Proceedings could be validly initiated under S. 271 of 1961 Act (May) 72A

—**S. 28 (1)**—Income-tax Act (1961), S. 271 (1)—Penalty proceedings for concealment of income—Question of fact—To be determined on circumstances of case—Nature of such proceedings (May) 72B

Income-tax Act (43 of 1961), S. 37—Assessee Company engaged in manufacture of castings and parts of diesel engines—Company agreeing to pay certain sum to engineer of certain concern in consideration of his leaving service and joining assessee as director—Amount so paid is capital expenditure—Claim for deduction under S. 37 not maintainable (May) 68

—**S. 220 (2) (as amended by Finance Act 53 of 1965)**—Effect of amendment—Liability to pay enhanced rate of interest at six per cent arises only in respect of those assessee in whose case "the day commencing after the end of the period mentioned in sub-s. (1)" is the day on or after 1-4-1965—Assessee required to pay tax before 1-4-1965 by a notice of demand—Facility to pay the amount by instalment granted on payment of five per cent interest on unpaid amount—Assessee cannot be required to pay enhanced rate of interest at six per cent from 1-4-1965, as a result of amendment of sub-s. (2) of S. 220 (June) 100A

—**S. 220 (3)**—Expression "without prejudice to the provisions contained in

Income-tax Act (1961) (contd.)

sub-s. (2)" means that grant of time for payment cannot absolve the assessee from payment of interest as provided in sub-s. (2) from the day commencing after the end of the period mentioned in sub-s. (1)

(June) 100B

—S. 271 (1) (c) — Penalty proceedings under S. 271 (1) (c), Income-tax Act, 1961 for defaults referred to in S. 28 (1) of Income-tax Act, 1922 in respect of assessment year ending 31-3-1962 — Proceedings could be validly initiated under S. 271 of 1961 Act — See Income-tax Act (1922), S. 28 (1)

(May) 72A

—S. 271 (1)—Penalty proceedings for concealment of income — Question of fact to be determined on circumstances of case — Nature of such proceedings—See Income-tax Act (1922), S. 28 (1)

(May) 72B

—Ss. 271 (1) and 297 (2) (a) — Assessment proceedings under 1922 Act as provided by S. 297 (2) (a)—Proceedings are deemed to be proceedings under 1961 Act — Order of penalty can be made in exercise of power under S. 271 (1): (1968) 69 ITR 312 (Guj), Dissented from

(Oct) 220B

—S. 297 (2) (a) — Assessment proceedings under 1922 Act—When deemed under 1961 Act — (1968) 69 ITR 312 (Guj), Dissented from—See Income-tax Act (1961), S. 271 (1)

(Oct) 220B

—S. 297 (2) (f) and (g) — Validity — Not violative of Art. 14 of the Constitution. (1967) 64 ITR 637 (Bom), Dissent. from

(Oct) 220A

Industrial Disputes Act (14 of 1947), Ss. 2 (b), 10 (1), 18, 36, 17 (2) — Provisions under Ss. 18 and 36 are no bar to interference by High Court under Arts. 226 and 227 in proper cases — "Determination" in Cl. (b) of S. 2 implies adjudication of Labour Court—Incorporation of terms of settlement between parties to reference into award is no adjudication — Position under O. 23, R. 3, Civil P. C. distinguished — Award quashed. AIR 1960 Ker 31, Dissented from (Oct) 200

—S. 10 (1) — Dispute between Co-operative Society governed by M. P. Co-operative Societies Act (17 of 1961) and its employees —Reference to Labour Court is legal — See Co-operative Societies—M. P. Co-operative Societies Act (17 of 1961), S. 55 (2)

(Mar) 46

—S. 10 (1) — Order refusing to make reference — Order can be reviewed by the authority — Order is administrative order and principles of res judicata do not apply. AIR 1966 Punj 354, Diss.

(Sep) 174

Industrial Disputes Act (contd.)

—S. 10 (1) — Reference under, pending— Parties agreeing to refer matter to private arbitration — Tribunal finding settlement fair and accepting it — Recording of settlement by Tribunal is neither adjudication nor award — See Industrial Disputes Act (1947), S. 2 (b)

(Oct) 200

—S. 17 (2)—Does not affect writ jurisdiction of High Court to examine whether provisions of Act were complied with or not — See Industrial Disputes Act (1947), S. 2 (b)

(Oct) 200

—S. 18—Private settlement of dispute by parties—Tribunal adopting compromise and giving award thereon — Award is binding— See Industrial Disputes Act (1947), S. 2 (b)

(Oct) 200

—Ss. 25F, 25FF and 25FFF (1) Proviso — Electric Supply Company taken over by Electricity Board — Services of workmen terminated with three months' notice — Workmen, held, entitled to full compensation under S. 25F read with S. 25FF as it is a case of transfer and not closure of business

(Oct) 196A

—S. 25F—Claim for compensation under —Should be made before Labour Court — See Industrial Disputes Act (1947), S. 33C (1), (2) and (4)

(Oct) 196B

—S. 25FF—Industrial undertaking changing ownership — Old owner retrenching workmen — Workmen entitled to full compensation under S. 25F read with S. 25FF— See Industrial Disputes Act (1947), S. 25F

(Oct) 196A

—S. 25FFF (1)—Workman paid compensation under S. 25FFF (1) — Their claim for compensation under S. 25F — Claim should be made to Labour Court — See Industrial Disputes Act (1947), S. 33C (1), (2) and (4)

(Oct) 196B

—S. 25FFF (1) Proviso—Industrial undertaking changing ownership — Undertaking continuing under new owner — There is no closure—See Industrial Disputes Act (1947), S. 25F

(Oct) 196A

—Ss. 33C (1), (2) and (4), 25F, 25FFF (1), Proviso — Madhya Pradesh Industrial Disputes Rules, R. 62 — Claim for full compensation under S. 25F — Preference of, before Labour Court, held correct — Claim application need not be presented to Government under R. 62

(Oct) 196B

—S. 36 — Provision restricts operations under Act — Workman not debarred from invoking writ jurisdiction — See Industrial Disputes Act (1947), S. 2 (b)

(Oct) 200

Inter Zonal Wheat and Wheat Products (Movement Control) Order, 1964, S. 3 — Offence under—Attempt to commit is equally an offence — *See* Essential Commodities Act (1955), S. 7 (May) 96

— *S. 4* — Offence under—Attempt to commit is equally an offence — *See* Essential Commodities Act (1955), S. 7 (May) 96

— *S. 6* — Clause 7 of S. 6 does not permit movement of grain from one State to another — *See* Essential Commodities Act (1955), S. 7 (May) 96

Iron and Steel (Control) Order, 1956 — Joint Plant Committee not amenable to writ jurisdiction (Feb) 25

Jabalpur University Act (22 of 1956)

See under Education.

Land Acquisition Act (1 of 1894), S. 2 (d) — Additional Collector — Whether Collector — *See* Land Acquisition Act (1894), S. 11 (May) 78A

— *S. 3 (b)* — Person interested — Person not noticed under Ss. 9 and 12 not barred from seeking reference under S. 18 (3) — *See* Land Acquisition Act (1894), S. 18 (May) 78D

— *Ss. 9, 13, 25 (1)* — Claim for compensation in pursuance of notice under S. 9 — Award in excess of claim is wrong (Feb) 28C

— *S. 9* — Person not noticed under the section — Eligibility for seeking reference under S. 18 (3) not affected — *See* Land Acquisition Act (1894), S. 18 (May) 78D

— *Ss. 11 and 12* — Award under — Claim for enhanced compensation — Onus to prove inadequacy of award is on claimant (Feb) 28A

— *Ss. 11, 12, 18 and 2 (d)* — Land Acquisition Manual Executive Instruction No. 80 — Declaration of award under S. 12 by Additional Collector, who was empowered to discharge functions of Collector — Approval by Collector in compliance with Instruction No. 80 does not amount to award being made by Collector — Additional Collector not incompetent to decide reference under S. 18, M. P. Adaptation of Laws Order (1956) (May) 78A

— *S. 12* — Claim for enhancement of compensation awarded — Onus of proof of inadequacy of award on claimant — *See* Land Acquisition Act (1894), S. 11 (Feb) 28A

— *S. 12* — Award by Additional Collector empowered to discharge functions of Collector — Approval by Collector in compliance with Instruction No. 80 — Effect — *See* Land Acquisition Act (1894), S. 11 (May) 78A

— *S. 12* — Absence of prior notice under the section — Eligibility for seeking refer-

Land Acquisition Act (contd.)

ence under S. 18 (3) not affected — *See* Land Acquisition Act (1894), S. 18 (May) 78D

— *S. 13* — Award in excess of claim is wrong — *See* Land Acquisition Act (1894), S. 9 (Feb) 28C

— *S. 13* — Application under S. 18 by interested person — Not barred only because compensation is already paid to rival claimant — *See* Land Acquisition Act (1894), S. 18 (May) 78E

— *S. 18* — Award by Additional Collector, empowered to discharge functions of Collector — Approval by Collector — Effect — *See* Land Acquisition Act (1894), S. 11 (May) 78A

— *S. 18* — Section is mandatory — Application for reference by interested person — Refusal to make reference on ground that applicant should file suit is illegal (May) 78B

— *Ss. 18, 3 (b), 9 and 12* — Application for seeking reference under S. 18 by interested person — Absence of prior service of notices under Ss. 9 and 12 to him — Eligibility for seeking reference not affected (May) 78D

— *Ss. 18, 31 and 13* — Application under S. 18 by interested person — Not barred only because compensation is already paid to rival claimant (May) 78E

— *S. 18* — Application under, by interested person — Not barred by his filing civil suit questioning entire acquisition proceedings (May) 78F

— *S. 18 (3) (as inserted by S. 3 of C. P. and Bearar Act, 7 of 1949)* — Refusal by Collector to make reference — Remedy under S. 18 (3) not availed of — Writ not barred — *See* Constitution of India, Art. 226 (May) 78C

— *S. 23* — Agricultural land, acquisition of — Claim for valuation as building site — Absence of evidence to prove such potentiality of land — Valuation as building site cannot be made (Feb) 28D

— *S. 25 (1)* — Award in excess of claim is wrong — *See* Land Acquisition Act (1894), S. 9 (Feb) 28C

— *S. 31* — Disability under — Limited to person who receives compensation without protests — *See* Land Acquisition Act (1894), S. 18 (May) 78E

— *S. 54* — Appeal under — Filing of appeal by Collector not in State's name but in his own as appellant — Appeal is not incompetent (Feb) 28B

Limitation Act (9 of 1908), S. 3 — Law of limitation extinguishes right to recover debt and not the debt itself — *See* Estate Duty Act (1953), S. 7 (Apr) 50C

Madhya Bharat Sales Tax Act (30 of 1950)
See under Sales Tax.

Madhya Pradesh Abolition of Property Rights, Estates, Mahals and Alienated Lands Act (1 of 1951)
See under Tenancy Laws.

Madhya Pradesh Accommodation Control Act (23 of 1955)
See under Houses and Rents.

Madhya Pradesh Agricultural Produce Markets Act (19 of 1960), Ss. 3, 4, 5, 15 — M. P. Agricultural Produce Markets Rules, 1962, R. 54 (1) — Restricting the sale and purchase of a particular agricultural produce in one of the market yards does not result in total prohibition of trading in that produce in the entire market area—Such direction therefore is not ultra vires rule-making power of Government and can be validly issued under R. 54 (1) (Sep) 186A

—S. 4 — Restricting sale or purchase of a particular agricultural commodity in one yard is not total prohibition throughout the market area — See M. P. Agricultural Produce Markets Act (19 of 1960), S. 3 (Sep) 186A

—S. 5 — Restricting sale or purchase of a particular agricultural commodity in one yard is not total prohibition throughout the market area — See M. P. Agricultural Produce Markets Act (19 of 1960), S. 3 (Sep) 186A

—S. 15 — Restricting sale or purchase of a particular agricultural commodity in one yard is not total prohibition throughout the market area — See M. P. Agricultural Produce Markets Act (19 of 1960), S. 3 (Sep) 186A

—S. 38 (2) (V) — Rule 54 is intra vires rule-making power under S. 38 (2) (Sep) 186B

Madhya Pradesh Agricultural Produce Markets Rules, 1962, S. 54 (1) — Restricting dealing certain commodities in certain yards not ultra vires R. 54 — See M. P. Agricultural Produce Markets Act (19 of 1960), S. 3 (Sep) 186A

Madhya Pradesh Co-operative Societies Act (17 of 1961)
See under Co-operative Societies.

Madhya Pradesh Excise Act (2 of 1915), S. 31 (1) (b) — Constitution of India, Arts. 19 (1) and 226 — Cancellation of licence under S. 31 (1) (b)—Authority has to act judicially — No opportunity given to licensee to meet allegations — Cancellation order is invalid (Sep) 176A

Madhya Pradesh Excise Act (contd.)

—S. 31 (1) (b)—Cancellation of licence — Principles of natural justice not followed — Remedy of appeal open — Writ is yet maintainable—See Constitution of India, Art. 226 (Sep) 176B

Madhya Pradesh General Clauses Act (3 of 1958), S. 10 — New enactment replacing old one — New Act not providing for rights and liabilities under old Act — Rights and liabilities governed under old Act—See Sales Tax — Madhya Bharat Sales Tax Act (30 of 1950) (repealed), S. 12 (1) (Oct) 207A

—S. 10 — No provision under new Act for dealing with rights and liabilities under repealed Act — Remedy under repealed Act continues — See Sales Tax — M. P. General Sales Tax Act (2 of 1959), S. 52 (1) and (1-a) (Oct) 207B

Madhya Pradesh General Sales Tax Act (2 of 1959)
See under Sales Tax.

Madhya Pradesh General Sales Tax Rules (1959)
See under Sales Tax.

Madhya Pradesh High Court Rules and Orders (Criminal)
See High Court Rules and Orders.

Madhya Pradesh Industrial Disputes Rules, R. 62—Claim for full compensation under S. 25F—Preference of, before Labour Court held correct—Claim application need not be presented to Government under R. 62—See Industrial Disputes Act (1947), S. 33 (c) (Oct) 196B

Madhya Pradesh Industrial Relations Act (27 of 1960), Ss. 2 (17), 31, 51 — Industrial dispute — Notice of change under S. 31 — No prerequisite for giving rise to (Dec) 248A

—Ss. 2 (17), 51 and 82 — Closure can be subject-matter of industrial dispute—Scope of provisions stated (Dec) 248C

—S. 2 (17)—Closure of part of machinery or discontinuance of a shift may give rise to an industrial dispute (Dec) 248D

—S. 31 — Notice of change under S. 31—No prerequisite for giving rise to industrial dispute — See Madhya Pradesh Industrial Relations Act (27 of 1960), S. 2 (17) (Dec) 248A

—Ss. 31 (3), 61 (1) (A) (a), 61 (2)—Labour Court, powers of—Domestic enquiry not in conformity with standing orders — Enquiry into charges can be made by Labour Court itself — Domestic enquiry not held in compliance with prescribed regulation—Same principle applicable (May) 65A

Madhya Pradesh Industrial Relations Act
(*contd.*)

—S. 51—Notice of change under S. 31—
Not condition precedent for making reference
under S. 51—*See* Madhya Pradesh Industrial
Relations Act (27 of 1960), S. 2 (17)

(Dec) 248A

—S. 51—Existence of industrial dispute—
Reference reciting satisfaction of Govern-
ment—Regularity of reference must be pre-
sumed—Company pleading absence of dis-
pute has to prove it

(Dec) 248B

—S. 51—Section not controlled by S. 82—
Closure can be subject of industrial dispute
—*See* M. P. Industrial Relations Act (27 of
1960), S. 2 (17)

(Dec) 248C

—S. 61 (1) (A) (a), (2)—Powers of Labour
Court—Domestic enquiry not in conformity
with standing orders—Enquiry into charges
can be made by Labour Court itself—*See*
M. P. Industrial Relations Act (27 of 1960),
S. 31 (3)

(May) 65A

—Ss. 65 (1) (a), 83, 85 and 86—Appeal
under S. 65 (1) (a)—Finding therein by
Industrial Court that dismissal of employee
is proper and not in contravention of S. 83—
Setting aside penalty imposed on employer
under S. 86—It must also set aside order of
reinstatement passed under S. 85

(April) 62A

—S. 66—Revisional jurisdiction—Exercise
of—Discretionary—Defect in Labour
Court's order—Industrial Court not bound
to set it aside

(May) 65C

—S. 82—Section does not control S. 51—
Closure can be subject of industrial dispute
—*See* M. P. Industrial Relations Act (27 of
1960), S. 2 (17)

(Dec) 248C

—S. 83—Finding by Industrial Court that
dismissal of employee is proper and not in
contravention of S. 83—Setting aside penalty
imposed on employer under S. 86—It must
also set aside order of reinstatement passed
under S. 85—*See* Madhya Pradesh Industrial
Relations Act (27 of 1960), S. 65 (1) (a)

(April) 62A

—S. 83 (c)—Transfer of employee from one
post to another—Labour Court ordering
reinstatement to original post—Meanwhile,
agreement between employer and Union
increasing work-load of that post accompa-
nied by increase in wages—Refusal by
employee on first day of his reinstatement to
complete increased work-load—His dismissal
is not in contravention of S. 33 (c)

(April) 62B

—S. 85—Dismissal of work employee
held proper and penalty imposed on emplo-
yer set aside—Order of reinstatement must
also be set aside—*See* Madhya Pradesh In-

Madhya Pradesh Industrial Relations Act
(*contd.*)

Industrial Relations Act (27 of 1960), S. 65 (1)
(a)

(April) 62A

—S. 86—Setting aside of penalty imposed
on the employer on finding that dismissal
was proper—Order of reinstatement must
also be set aside—*See* Madhya Pradesh In-
dustrial Relations Act (27 of 1960), S. 65 (1)
(a)

(April) 62A

Madhya Pradesh Minor Minerals Rules (1961),
Rr. 24 (2) and 25 (1) (i)—Rate of royalty—
Revision—Government can revise notwith-
standing any contrary clause in the lease
deed

(Oct) 210B

—R. 25 (1) (i) (a)—Rate of royalty for
minor minerals—Powers of State Govern-
ment to make rules—*See* Mines and Minerals
(Regulations and Development) Act (1957),
S. 15 (1)

(Oct) 210A

—R. 25 (1) (i)—Rates of royalty—Can
always be revised by Government—*See*
Madhya Pradesh Minor Mineral Rules (1961),
R. 24 (2)

(Oct) 210B

Madhya Pradesh Municipalities Act (37 of 1961)

See under Municipalities.

M. P. Prisoners' Release on Probation Act (14 of 1954), S. 2—Transfer of prisoners to M. P. State—Powers of State Government under S. 2 to release prisoners—Are not subject to prior concurrence of State of conviction—*See* Transfer of Prisoners' Act (1950), S. 3

(Dec) 252

M. P. Prisoners' Release on Probation Rules (1964), R. 3—Release of prisoners under S. 2 of M. P. Act 16 of 1954—Conditions—Rule 3 imports other requirement to be fulfilled—*See* Transfer of Prisoners' Act (1950), S. 3

(Dec) 252

Madhya Pradesh Public Trusts Act (30 of 1951), S. 32—Bar under—Principal office of trust outside State—Suit by Trust not barred under S. 32 for want of registration

(Jan) 4A

Madhya Pradesh Unification of Pay Scales and Fixation of Pay Absorption Rules (1959)

See under Civil Services.

Mens rea

See Sales Tax—Central Sales Tax Act (1956), S. 10 (b).

(Oct) 213

Merged States (Taxation Concession) Order (1949), Para. 13 (3)—Exemption from income-tax—Eligibility for—Conditions stated

(June) 127A

—Para. 13 (3)—Word 'pension'—What it signifies—Allowance granted to assessee for

Merged States (Taxations Concession) Order*(contd.)*

giving him privileges, not pension — No exemption from income-tax can be claimed for such allowance (June) 127B

— *Para. 13 (3)* — 'Subordinate Chief' — Expression has no reference to blood relation with Ruler — It originates in existence of feudal system (June) 127C

Mineral Concession Rules (1960), R. 27 (5)

— Non-compliance with notices under, requiring lessee to make payment of rent and royalty — Subsequent notice demanding rent and royalty becoming payable thereafter — Right to forfeit or determine lease on ground of non-compliance with previous notices waived — Cancellation of lease on that ground is unauthorised (July) 141

Mines and Minerals (Regulation and Development) Act (67 of 1957), S. 15 (1) — M. P.

Minor Minerals Rules (1961), R. 25 (1) (i) (a) — Rates of royalty for minor minerals — State Government has power to make rules (Oct) 210A

— *S. 25* — Sums due under mining lease — Recovery of, as land revenue — Can be ordered, even if lease was executed or amount became due before commencement of Act (Mar) 48

Motor Vehicles Act (4 of 1939), S. 2 (20) — Application for permits — All application for permits should be treated alike and considered — See Motor Vehicles Act (1939), S. 45 (Oct) 204B

— *Ss. 44 (3) (4) and 45 proviso 2* — Scope — Inter-regional route — Applications for permit made by persons in different regions to respective Regional Transport Authorities — State Transport Authority directing all such applications to be decided only by Regional Transport Authority of a specified region — Direction without jurisdiction (May) 92

— *S. 45 proviso 2* — Inter-regional route — Applications for permits made to respective R. T. As. — Direction by S. T. A. to decide all applications by R. T. A. of specified region — Direction without jurisdiction — See Motor Vehicles Act (1939), S. 44 (3) (4) (May) 92

— *S. 45 Proviso 2* — "Resides" — Residence may even be temporary — Applicant need not own the house he is living in (Oct) 204A

— *Ss. 45 and 2 (20)* — Applications cannot be treated as confined to particular vacancy — All applications for permit in respect of same route are to be treated alike and considered together (Oct) 204B

— *S. 45* — Three applicants seeking permit under S. 45 — R. T. A. wrongly rejecting one

1969 (M.P.) Indexes 2/(1) — 8 pages.

Motor Vehicles Act (contd.)

application on ground that applicant was not resident of the region — Aggrieved applicant appealing — Remand by the Appellate authority, held, proper and justified (Oct) 204C

— *S. 47 (3)* — Extension of route, amounting to new permit — Not permissible — See Motor Vehicles Act (1939), S. 57 (8) (Jan) 13

— *Ss. 47 (3) and 57 (2) and S. 68-B and Chap. IV-A* — Notification by R. T. A. inviting applications for permits on specified routes and areas falling within approved scheme under Chap. IV-A — Notification cannot stand and must be quashed — Approved scheme under Chap. IV-A has force of law and has effect of overriding powers of R. T. A. under Chap. IV so far as they may be inconsistent with the scheme — Hence no action can be taken by R. T. A. under Chap. 4 in derogation of the scheme (Sep) 182

— *S. 67 (2)* — Scheme under Chap. IV-A has force of law — Overrides powers of R. T. A. under Chap. IV — See Motor Vehicles Act (1939), S. 47 (3) (Sep) 182

— *Ss. 57 (8) and 47 (3)* — Extension of route — Grant of, amounting to new permit — Not permissible (Jan) 13

— *S. 64* — R. T. A. acting in excess of jurisdiction — Appeal under S. 64 available yet writ is maintainable — See Constitution of India, Art. 226 (Sep) 183B

— *S. 68-B* — Scheme under Chap. IV-A has force of law — Overrides powers of R. T. A. under Chap. IV — See Motor Vehicles Act (1939), S. 47 (3) (Sep) 182

— *S. 68-C* — Objection to scheme — Bias of Ministers alleged — Motivation of State Road Transport Corporation must also be shown — See Motor Vehicles Act (1939), Chap. IV-A (Aug) 150E

— *Ss. 68-C and 68-F* — Scheme made under Chap. IV-A — Exclusive operation by Corporation — Permit for plying bus on the part of such road cannot be granted (Sep) 183A

— *S. 68-D* — Matters falling under the section need not be allocated to the Minister — It is sufficient if allocation of subject to which the consideration of objections to schemes and their approval refer has been made in accordance with Business Allocation Rules (Aug) 150D

— *S. 68-D, Chap. IV-A* — Draft Scheme — Objections are limited to consideration whether scheme is required for purpose of providing an efficient, economic and co-ordinated road transport service (Aug) 150F

Motor Vehicles Act (contd.)

—*S. 68-D (2)*—Function performed under the section, of hearing objections to the scheme and of approving or modifying it is essentially administrative, though the process of hearing objections is quasi-judicial—Such function can be delegated in accordance with Rules of business made under Art. 166 (3) of the Constitution (Aug) 150B

—*S. 68-F*—Duty of Regional Transport Authority—Cannot grant permit on route or its part covered by scheme under which that route was given to corporation—*See* Motor Vehicles Act (1939), S. 68-C

(Sep) 183A

—*Ss. 96 (2) and (6), 110-A to 110-F*—Claim for compensation in respect of accident involving death or bodily injury to persons where there is policy of insurance against third party risk—Procedure provided in Act must be followed—Insurer must be made a party to proceedings (May) 89A

—*S. 96 (2)*—Compensation quantum not exceeding statutory limit—Insurance Company cannot challenge it—*See* Motor Vehicles Act (1939), S. 110D (Sep) 190B

—*S. 96 (2) and (6)*—Appeal by Insurance Company against claim awarded by tribunal—Insured not appealing against the award—Application for transposition of insured as appellant by Insurance Company filed beyond time cannot be allowed (Sep) 190C

—*S. 110 (3)*—Appointment of Motor Accident Claims Tribunal—Appointment of Additional District Judge by designation is not invalid in all cases—Only in those cases where the Additional District Judge concerned is not qualified to be appointed a judge of the High Court that the appointment would be invalid. Civil Revn. No. 190 of 1966 D/. 27.9.1968 (M. P.), **Overruled**

(Sep) 190A

—*Ss. 110A to 110F*—No third party risk policy of insurance—Accident involving death or bodily injury to persons—Procedure to be followed—*See* Motor Vehicles Act (4 of 1939), S. 96 (2) (6) (May) 89A

—*S. 110B*—Claims in personal injury cases—Duty of Claims Tribunal (May) 89C

—*S. 110D*—Appeal upon quantum of damages—Grounds (May) 89B

—*Ss. 110D and 96 (2)*—Claim for compensation—Insurance company cannot be allowed to challenge quantum unless it exceeds the statutory limit (Sep) 190B

—*Chapter IV-A, Section 68-C*—Schemes framed under Chapter IV-A—Challenge on the ground of mala fides of a Minister in originating the Scheme—Petitioner has to show that the State Road Transport Corporation was also motivated (Aug) 150E

Motor Vehicles Act (contd.)

—*Chap. IV-A*—Scheme framed under—Objections, limitation of—*See* Motor Vehicles Act (1939), S. 68-D (Aug) 150F

—*Chap. IV-A*—Scheme under Chapter IV-A has force of law—Overrides powers of R.T.A. under Chapter IV—*See* Motor Vehicles Act (1939), S. 47 (3) (Sep) 182

MUNICIPALITIES

—*C. P. and Berar Municipalities Act (2 of 1922), S. 66 (1) (e)*—Expression “brought within the limits of the municipality”—It means conveyed from another place and come to rest within municipal limits (Jan) 1A (FB)

—*Madhya Pradesh Municipalities Act (37 of 1961), S. 3 (18)*—Notice to parties interested to be heard in support of review—*See* Municipalities—M. P. Municipalities Act (37 of 1961), S. 332 (Jan) 15C

—*S. 4*—Notice to parties interested to be heard in support of order under review—Notice to all citizens residing in Municipal area not necessary—*See* Municipalities—M. P. Municipalities Act (37 of 1961), S. 332 (Jan) 15C

—*S. 5*—“Parties interested to appear and be heard”—Notice to all citizens residing in municipal area not necessary—*See* Municipalities—M. P. Municipalities Act (37 of 1961), S. 332 (Jan) 15C

—*S. 328*—Power of review—Scope—*See* Municipalities—M. P. Municipalities Act (37 of 1961), S. 332 (Jan) 15A

—*S. 328*—Scope—Regular formal enquiry into allegations on which it is proposed to dissolve or supersede council, is not contemplated—Such enquiry is not also barred by section (Jan) 15D

—*Ss. 328 (1) and 328 (6)*—Order of dissolution of council—Consequences mentioned in S. 328 (6) follow—*See* Municipalities—M. P. Municipalities Act (37 of 1961), S. 332 (Jan) 15B

—*Ss. 332 and 328*—Power of review—Scope—Order dissolving municipal council—Order can be reviewed (Jan) 15A

—*Ss. 332, 328 (1) and 328 (6)*—Power of review—Scope—Order of dissolution—Consequences mentioned in S. 328 (6) follow—Order restoring council can still be made in exercise of power of review (Jan) 15B

—*Ss. 332, 3 (18), 4 and 5*—Powers of review—Notice to parties interested to be heard in support of order under review—Notice to all citizens residing in municipal area not necessary—Councillors found to be not interested in supporting order of dissolution—Order setting aside order of dissolution

Municipalities—Madhya Pradesh Municipalities Act (contd.)

tion not vitiated for want of notice to them (Jan) 15C

—S. 332 — Power of review — Scope — Government can review its order if it is not reasonable, proper or legal—Power is to be exercised sparingly and in extraordinary circumstances (Jan) 15E

—Octroi Imposition Rules (framed by Municipal Council, Pandhurna) (1958), Item No. 87 (Class VIII) of Schedule—Expression “carriages and all sorts of conveyances” — Expression includes motor bus (Jan) 1B (FB)

Octroi Imposition Rules (Framed by Municipal Council, Pandhurna) (1958)

See under Municipalities,

Partnership Act (9 of 1932), S. 13 — Capital contribution and advance, distinction between — Partner can withdraw capital by agreement with other partners—Withdrawal of capital contribution does not make it an advance merely because there is no compulsion in partnership deed to contribute towards capital — Withdrawal of capital does not mean want of obligation to contribute to capital (Jan) 9B

Penal Code (45 of 1860), S. 40—Mens rea — Necessary in offence under Central Sales Tax Act (1956), S. 10 (b)—See Sales Tax — Central Sales Tax Act (1956), S. 10 (b) (Oct) 213

—S. 511—Preparation and attempt—Distinguished—See Essential Commodities Act (1955), S. 7 (May) 96

Pensions Act (23 of 1871), S. 3 — Pensions—What it signifies—See Merged States (Taxation Concessions) Order (1949), Paragraph 13 (3) (June) 127B

Prevention of Food Adulteration Act (37 of 1954), S. 8—Appointment of Public Analyst —Person appointed as a chemist can be appointed as public analyst—He need not be a medical officer—Such appointment need not be by name (Aug) 147B

Provincial Small Cause Courts Act (9 of 1887), Ss. 15 and 16—S. 15 has no bearing on question of jurisdiction of regular Courts to try suit cognizable by Court of Small Causes as ordinary suit when there is already a Court of Small Causes having jurisdiction to try suit (Apr) 56B

—Ss. 16 and 23—Civil P. C. (1903), Ss. 24 (4), 107 and 115—Regular Court, when can try small cause suit — Decision of Court in

Provincial Small Cause Courts Act (contd.)

suit, which it is not competent to try, is nullity — Objection to jurisdiction can be taken even in appeal or revision : C. R. No. 377 of 1936, D/- 29-3-1967 (M. P.) and C. R. No. 208 of 1966, D/- 10-4-1967 (M. P.), Overruled (Apr) 56A

—S. 16—Small cause suit — Jurisdiction of regular Courts to try such suits—See Provincial Small Cause Courts Act (1887), S. 15 (Apr) 56B

—S. 23 — Regular Court when can try small cause suit—See Provincial Small Cause Courts Act (1887), S. 16 (Apr) 56A

Representation of the People Act (43 of 1951), Ss. 81, 86 (1)—Election challenged on ground of corrupt practice — Omission of petitioner to supply copies of annexures for being served to respondents—Effect — Petition is liable to be dismissed—Requirement of S. 81 (3) is mandatory (Dec) 243A

—S. 81—Election petition — Amendment of — Limitations — Cannot be allowed to remove defect of presentation under S. 81—See Representation of the People Act (1951), S. 86 (5) (Dec) 243B

—S. 86 (1) — Non-compliance with S. 81 (3)—Petition is liable to be dismissed — See Representation of the People Act (1951), S. 81 (Dec) 243A

—Ss. 86 (5), 81 — Election petition — Amendment of — Power of High Court—Extent of—Amendment when can be allowed —Principles of, stated (Dec) 243B

SALES TAX

—C. P. and Berar Sales Tax Act (21 of 1947), S. 4 (6) (as amended by M. P. Act No. 20 of 1963) — Certificate issued to assessee in relation to unamended S. 4 (6)—Assessment under amended S. 4 (6), when open (Nov) 227

—Central Sales Tax Act (74 of 1956), Ss. 7 (3), (4) (b), 8 (1) and (3) — Number of goods that a dealer can purchase for purposes of S. 8 (1) — Cannot be restricted by authority issuing registration certificate—No provision either under Act or Rules authorising him to do so — Restriction on ground of possible misuse of certificate, cannot be justified (Apr) 53A

—Ss. 7 (4) (a), 8 (4) — Central Sales Tax (Registration and Turnover) Rules (1957), R. 5 (1) — Application for amendment of registration certificate—Date of effectiveness of amendment—Date of application and not when amendment is allowed should be taken —Responsibility for delay in allowing amendment is on Sales Tax authority (Apr) 53B

Sales Tax — Central Sales Tax Act (contd.)

—S. 8 (1), (3)—Restriction as to number of goods that a dealer can purchase—Validity—*See* Sales Tax—Central Sales Tax Act (1956), S. 7 (3) (Apr) 53A

—S. 8 (4)—Amendment of registration certificate — Is effective from the date of application for amendment—*See* Sales Tax—Central Sales Tax Act (1956), S. 7 (4) (a) (Apr) 53B

—S. 9—Penalty—Levy of—Basis of—*See* Sales Tax — M. P. General Sales Tax Act 1958 (2 of 1959), S. 19 (July) 134B

—S. 10 (b)—“Falsely represents” — Interpretation of — Existence of mens rea is a necessary constituent of offence falling under S. 10 (b) (Oct) 213

—Central Sales Tax (Registration and Turnover) Rules (1957), R. 5 (1) — Amendment of registration certificate — Date of effectiveness of amendment — *See* Sales Tax—Central Sales Tax Act (1956), S. 7 (4) (a) (Apr) 53B

—Madhya Bharat Sales Tax Act (30 of 1950), S. 12 (1) (repealed) — M. P. General Clauses Act (3 of 1958), S. 10—Rights and liabilities of dealer for turnover liable to sales tax under repealed Act—Governed by that Act even after repeal (Oct) 207A

—M. P. General Sales Tax Act 1958 (2 of 1959), S. 19—Escaped turnover for period of 19 days only proved — Authorities cannot estimate taxable turnover for entire period of the relevant year on its basis — Penalty, levy of—Basis of, under Central Act (July) 134B

—S. 19 (1) — There can be best judgment assessment under S. 19 (1) (July) 134A

—S. 39 (2) — Repeal of Madhya Bharat Sales Tax Act (30 of 1950) — Rights and liabilities under repealed Act governed by that Act only — *See* Sales Tax — Madhya Bharat Sales Tax Act (30 of 1950) (repealed), S. 12 (1) (Oct) 207A

—S. 52 (1) and (1-a)—Assessment proceedings for period when repealed Act was in force — Governed by substantive as well as remedial and procedural provisions of repealed Act (Oct) 207B

—M. P. General Sales Tax Rules (1959), Rr. 33 (1) and (2) — Absence of provision as to making of best judgment assessment—Effect — *See* Sales Tax — M. P. General Sales Tax Act, 1958 (2 of 1959), S. 19 (1) (July) 134A

State Bank of India (Sub-accountants and Head Cashiers) Service Rules (1959)
See under Civil Services.

States Reorganisation Act (37 of 1956), S. 115 (7) — Scales of pay made available to employees of State Government could no longer be revised to their disadvantage (July) 143B

—S. 115 (7) — Government of new State by order creating, with retrospective effect, new scales of pay governing permanent employees to their disadvantage — *Held*, order was not rule framed under Art. 309 of Constitution and therefore not in conformity with S. 115 (7) (*Obiter*) (July) 143B

TENANCY LAWS

—Madhya Pradesh Abolition of Property Rights Estates, Mahals and Alienated Lands Act (1 of 1951), S. 28 — Applicability of section—Execution Court held had jurisdiction to decide—*See* Civil P. C. (1908), S. 47 (March) 35D

Transfer of Prisoners Act (29 of 1950), S. 3—
M. P. Prisoners Release on Probation Act (16 of 1954), S. 2 — M. P. Prisoners Release on Probation Rules (1964), R. 3 — Transfer of prisoners to M. P. State—Powers of State Government under S. 2 to release such prisoner—Are not subject to prior concurrence of State of conviction — Expression “in due course of law” in S. 3 — Meaning (Dec) 252

Transfer of Property Act (4 of 1882), S. 60—
Lessor of mortgagor can redeem if enforcement is sought against leasehold rights (March) 35C

—S. 111 (g) — Determination of lease — Second clause of S. 111 (g), T. P. Act in conflict with S. 4 (f) — S. 4 (f) stands and second clause of S. 111 (g) stands abrogated after 1-1-1959 — *See* M. P. Accommodation Control Act (23 of 1955), S. 4 (f) (Feb) 32C
—S. 111 (g)—Tenant denying title of landlord — Permissible limits — If denial is in permissible limits, estoppel cannot be applied to tenant—Penalty of forfeiture when applies : (1913) 35 All 145 and AIR 1953 All 797, Not followed (Feb) 32D

—S. 112 — Non-compliance with notice under R. 27 (5), Mineral Concession Rules, 1960 to make payment of rent and royalty—Right to forfeit and to determine lease on ground of non-compliance waived—Cancellation of lease on the ground is unauthorised — *See* Mineral Concession Rules (1960), R. 27 (July) 141

Wealth Tax Act (27 of 1957), S. 7 (2) and (a)
— Manufacture of machinery components

Wealth Tax Act (contd.)

for textile industry — Net value of assets in such manufacture — Depreciation under Ss. 10 (2) (vi), (a), (b) and (c) and 10 (2) (vi-a) of Income-tax Act not to be taken into account—(Income-tax Act (1922), Ss. 10 (2) (vi) (a) (b) and (c) and 10 (2) (vi-a)) (Aug) 145

Words and Phrases—Word “and”—Meaning of — *See* Civil P. C. (1908), Pre. (Aug) 147A
 —“Dangerous”—*See* Factories Act (1948), S. 21 (June) 110C

—“Determination” in S. 2 (b), Industrial Disputes Act means adjudication upon relevant material—*See* Industrial Disputes Act (1947), S. 2 (b) (Oct) 200

—“Due” meaning of — *See* Mines and Minerals (Regulation and Development) Act (1957), S. 25 (March) 48

—“False”—Meaning of—*See* Sales Tax—

Words and Phrases (contd.)

Central Sales Tax Act (1956), S. 10 (b)

(Oct) 213

—“In due course of law” — *See* Transfer of Prisoners Act (1950), S. 3 (Dec) 252

—“Management” — Management means administration, control etc. (Sep) 186C

—Word “or” — Meaning of — *See* Civil P. C. (1908), Pre. (Aug) 147A

—“Passes” — Meaning—*See* Estate Duty Act (1953), S. 5 (1) (Nov) 229

—Word ‘pension’ — Meaning of — *See* Merged States (Taxation Concessions) Order (1949), Paragraph 13 (3) (June) 127B

—“Residence”—Ordinarily includes temporary residence also — *See* Motor Vehicles Act (1939), S. 45, Proviso 2 (Oct) 204A

—“Talbana” ordinarily means process fee — *See* Criminal P. C. (1898), S. 204 (3)

(Feb) 20B

MADHYA PRADESH CASES SUBJECTWISE OVERRULED, REVERSED AND DISSENTED FROM ETC. IN A. I. R. 1969.

Diss. = Dissented from in; Not F. = Not followed in; Over. = Overruled in;
Revers. = Reversed in.

Civil Procedure Code (5 of 1908)

- S. 9 — Civil Revn. No. 208 of 1966, D/- 10-4-1967 (M.P.)—Over. AIR 1969 Madh Pra 44A (Mar).
- S. 21 — Civil Revn. No. 208 of 1966, D/- 10-4-1967 (M.P.)—Over. AIR 1969 Madh Pra 44A (Mar).
- S. 80—F. A. No. 217 of 1959, D/- 16-4-1963 (MP)—Revers. AIR 1969 SC 1256A (Dec).
- S. 115—Civil Revn. No. 208 of 1966, D/- 10-4-1967 (MP)—Over. AIR 1969 Madh Pra 44 (Mar).
- S. 115 — C. R. No. 377 of 1966, D/- 29-3-1967 (MP)—Over. AIR 1969 Madh Pra 56A (Apr).
- O. 23, R. 1 — Misc. Appeal No. 22 of 1962, D/- 17-9-1962 (MP)—Revers. AIR 1969 S C 1118 (Dec).
- O. 23, R. 3 — Misc. Appeal No. 22 of 1962, D/- 17-9-1962 (MP)—Revers. AIR 1969 S C 1118 (Dec).

Constitution of India

- Art. 311 (2) — AIR 1959 M. P. 43—Diss. AIR 1969 Mys 41C (Feb).
- Art. 311 (1)—AIR 1960 M. P. 254—Diss. AIR 1969 Mys 41C (Feb).

Contract Act (9 of 1872)

- S. 73 — AIR 1963 Madh Pra 242—Diss. AIR 1969 Bom 373C (Nov).

Co-operative Societies—Maharashtra Co-operative Societies Act (24 of 1961)

- S. 91 (1)—AIR 1961 Madh-Pra 40—Over. AIR 1969 S C 1320C (Dec).

Criminal Procedure Code (5 of 1898)

- S. 488 (3) — AIR 1956 Bhopal 71—Diss. AIR 1969 Mad 414 (Nov).

Employees' Provident Funds Act (19 of 1952)

- S. 1 (3) (b) (a)—AIR 1957 Madh Pra 157 —Diss. AIR 1969 Bom 95C (Mar).

Hindu Marriage Act (25 of 1955)

- S. 12 — AIR 1965 Madh-Pra 194—Diss. AIR 1969 Mad 405 (Nov).

HOUSES AND RENTS

- C. P. and Barar Regulation of Letting of Accommodation Act (11 of 1946)
- S. 2 — S. A. No. 357 of 1962, D/- 27-11-1962 (MP)—Over. AIR 1969 Madh Pra 130A (July).
- S. 6—S. A. No. 357 of 1962, D/- 27-11-1962 (MP)—Over. AIR 1969 Madh Pra 130A (July).

Industrial Disputes Act (14 of 1947)

- S. 33-C (2)—AIR 1967 Madh Pra 155 — Diss. AIR 1969 Punj 310B (Sep).
- S. 10 — AIR 1954 Bhopal 17—Diss. AIR 1969 Goa 16C (Jan).

Jammu and Kashmir Representation of the People Act (4 of 1957)

- S. 47 — AIR 1966 Madh-Pra 255 — Diss. AIR 1969 J. and K. 16D (Jan).

Jammu and Kashmir State Constitution (1956)

- S. 51 — AIR 1966 Madh Pra 18 — Diss. AIR 1969 J. and K. 16D (Jan).

Land Acquisition Act (1 of 1894)

- S. 23 (1) and (2) — AIR 1934 Madh-Pra 196—Diss. AIR 1969 Guj 191C (June).

Limitation Act (9 of 1908)

- Art. 149—F. A. No. 217 of 1959, D/- 16-4-1963 (MP) — Revers. AIR 1969 S C 1256B (Dec).

Motor Vehicles Act (4 of 1939)

- S. 110 (3)—Civil Revn. No. 190 of 1966, D/- 27-9-1963 (MP) — Over. AIR 1969 Madh Pra 190A (Sep).

Motor Vehicles Act (*cont'd.*)

- S. 110-F—1962 M P L J 465—Diss. AIR 1969 Raj 316 (Dec).
- S. 110-F—AIR 1964 M P 133—Diss. AIR 1969 Delhi 3
- S. 110-F — AIR 1964 Madh-Pra 133 — Diss. AIR 1969 Raj 316 (Dec).

Provincial Small Cause Courts Act (9 of 1887)

- Ss. 16, 23 — C. R. No. 208 of 1966, D/- 10-4-1967 (MP)—Over. AIR 1969 Madh Pra 56A (Apr).
- Ss. 16, 23 — C. R. No. 377 of 1966, D/-

Provincial Small Cause Courts Act (*cont'd.*)

- 29-3-1967 (MP)—Over. AIR 1969 Madh Pra 56A (Apr).

Sale of Goods Act (3 of 1930)

- S. 4—AIR 1957 Madh-Pra 76—Diss. AIR 1969 Bom 437 (Dec).

SALES TAX

—Bombay Sales Tax Act (51 of 1959)

- S. 52 — AIR 1957 Madh-Pra 76 — Diss. AIR 1969 Bom 437 (Dec).

MADHYA PRADESH CASES OVERRULED, REVERSED AND DISSENTED FROM ETC. IN A. I. R. 1969

Diss.=Dissented from in; Not F.=Not followed in; Over. = Overruled in;
Revers. = Reversed in

- A I R 1954 Bhopal 17, Hamidia Match Manufacturing Co. Ltd. Bhopal v. State of Bhopal — Diss. AIR 1969 Goa 16C (Jan).
- A I R 1956 Bhopal 71=1956 Cri L J 1395, Abdulla Khan v. Chandni Bi — Diss. AIR 1969 Mad 414 (Nov).
- AIR 1957 Madh Pra 76=(1957) 8 S T C 370, D. Masanda and Co. v. Commr. of Sales-tax — Diss. A I R 1969 Bom 437 (Dec).
- AIR 1959 Madh Pra 43=1959 M P L J 423, Raghunath-Singh v. State — Diss. AIR 1969 Mys 41C (Feb).
- AIR 1960 Madh Pra 254=1960 M P L J 85, Antar Singh v. State—Diss. AIR 1969 Mys 41C (Feb).
- AIR 1961 Madh Pra 40=1960 M P L J 1209, Mishrimal v. Dist. Co-operative Growers' Association Ltd., Balaghat — Over. AIR 1969 S C 1320C (Dec)
- Misc. Civil Revn. Petn. No. 64 of 1961, D/- 13-11-1962 (MP)—Revers, AIR 1969 S C 953 (Nov).
- Misc. Appeal No. 22 of 1962, D/- 17-9-1962 (MP) — Revers. A I R 1969 S C 1118 (Dec).
- S. A. No. 357 of 1962, D/- 27-11-1962 (MP), Ram Kishan v. Jamuna Prasad—Over. AIR 1969 Madh Pra 130A (July)
- 1962 M P L J 465=1962 M P C 24, Iqbal Prakash v. State of Madhya Pradesh — Diss. AIR 1969 Raj 316 (Dec).
- F. A. No. 217 of 1959, D/- 16-4-1963 (MP) — Revers. AIR 1969 S C 1256A, B (Dec).
- Cri. Misc. Case No. 135 of 1962, D/- 5-4-1963 (MP) — Revers. A I R 1969 S C 401A, B (May)
- AIR 1963 Madh Pra 132=1962 M P C 287=1962 M P L J 685=1962 Jab L J 957, Takhatmal v. Bharat Nidhi, Ltd. — Revers. AIR 1969 S C 313 (Apr).
- AIR 1963 Madh Pra 242=1963 Jab L J 492, Pannalal v. State of Madhya Pradesh—Diss. AIR 1969 Bom 373C (Nov).
- AIR 1963 Madh Pra 337=(1963) 2 Cri L J 629, Sardar Khan Multan Khan v. State—Over. AIR 1969 S C 4B (Jan).
- AIR 1964 Madh Pra 133=1962 Jab L J 661, Sushma Mehta v. C. P. Transport Services, Ltd. — Diss. AIR 1969 Delhi 3 (Jan).
- AIR 1964 Madh Pra 133=1962 M P L J 876, Sushma Mehta v. Central Provinces Transport Services, Ltd. — Diss. AIR 1969 Raj 316 (Dec).
- AIR 1964 M P 196=1964 M P L J 220—1964 Jab L J 288, Collector Raigarh v. Chaturbhuj Panda - Revers. AIR 1969 S C 255B (Mar).
- AIR 1964 Madh Pra 196=1964 Jab L J 283, Collector, Raigarh v. Chaturbhuj Pande —Diss. AIR 1969 Guj 191C (June).
- First Appeals Nos. 68, 69, 71 and 70 of 1961, D/- 5-1-1965 (MP)—Revers. AIR 1969 S C 78 (Jan).
- AIR 1965 Madh Pra 194=1965 M P L J 321, Mohanmurari v. Kusumkumari—Diss. AIR 1969 Mad 405 (Nov).
- AIR 1966 Madh Pra 255=1966 Jab L J 91=1966 M P L J 77, Hariram Singh v. Kamtaprasad — Diss. AIR 1969 J & K 16D (Jan).
- Civil Revn. No. 208 of 1966, D/- 10-4-1967 (MP), Govardhan v. Nathu—Over. AIR 1969 Madh Pra 44A (Mar).
- C. R. No. 208 of 1966, D/- 10-4-1967 (MP), Govardhan v. Nathu—Over. AIR 1969 Madh Pra 56A (Apr).
- Cr. No. 377 of 1966, D/- 29-3-1967 (MP), Manakchand v. Rajmal—Over. A I R 1969 Madh Pra 56A (Apr).
- AIR 1967 Madh Pra 155=(1968) 1 Lab L J 139, Laxman v. Dayalal Meghji & Co. Diss. AIR 1969 Punj 310B (Sep).
- AIR 1967 Madh Pra 157=1967 Jab L J 86, Radhakrishna Narayandas v. Provident Funds Commr. M. P. — Diss. A I R 1969 Bom 95C (Mar).
- Civil Revn. No. 190 of 1966, D/- 27-9-1968 (MP), Lucky Bharat Garage (Private) Ltd., Raipur v. Smt. Shanti Devi — Over. AIR 1969 Madh Pra 190A (Sep).

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous Years.

Owing to late receipt of other Journals the following *Supplement to Comparative Tables of A. I. R. = Other Journals* is issued.

A. I. R. Madhya Pradesh = Other Journals

AIR 1966 Madh Pra AIR Other Journals	AIR 1967 Madh Pra AIR Other Journals	AIR 1968 Madh Pra AIR Other Journals	AIR 1968 Madh Pra AIR Other Journals
82 (1969) 1 Lab LJ 611	91 (1969) 1 Lab LJ 343	140 (1969) 1 Lab LJ 844	177con(1969) 2 Lab LJ 281
134 (1969) 1 Lab LJ 623	284 1968 Serv L R 18	148 1969 M P W R 376	191 1969 M P W R 932
		150 1968 M P W R 914	203 1969 M P W R 929
AIR 1967 Madh Pra	AIR 1968 Madh Pra	163 1968 M P W R 924	204 (1969) 2 Lab LJ 792
AIR Other Journals	AIR Other Journals	163 1969 M P W R 938	215 1968 M P W R 936
79 (1969) 1 Lab LJ 607	132 1968 Serv L R 533	168 1969 Jab LJ 123	228 1969 M P W R 27
		177 1968 Serv L R 455	229 1969 M P L J 44

A. I. R. 1969 Madhya Pradesh = Other Journals

AIR Other Journals	AIR Other Journals	AIR Other Journals	AIR Other Journals
1 [CN 1] FB	35 [CN 12]	62con 1969 M P L J 38	100con 1969 M P W R 307
1968 M P L J 586	1969 M P L J 17	18 Fac L R 30	73 I T R 55
1968 M P W R 537	1969 M P W R 35	1969 Lab I C 544	1969 Jab L J 798
1968 Jab L J 779	1969 Jab L J 664	65 [CN 22]	105 [CN 32]
4 [CN 2]	43 [CN 13]	1969 M P L J 132	1969 M P W R 169
1968 M P L J 545	1968 M P L J 753	1969 M P W R 303	1969 M P L J 374
1968 Jab L J 891	1968 M P W R 713	1969 Lab I C 546	1969 Jab L J 471
1968 M P W R 773	1968 Jab L J 1016	1969 Jab L J 622	110 [CN 33]
7 [CN 3]	(1969) 1 Lab L J 711	68 [CN 23]	1969 M P W R 195
1968 Jab L J 351	44 [CN 14]	1969 M P L J 27	1969 Lab I C 662
1968 M P W R 492	1968 Jab L J 583	72 I T R 657	1969 Jab L J 420
1969 M P L J 125	1968 M P L J 698	1969 Jab L J 792	1969 M P L J 486
9 [CN 4]	46 [CN 15]	72 [CN 24]	114 [CN 34]
1968 M P L J 739	1968 M P W R 715	1969 M P L J 41	1969 M P L J 166
70 I T R 831	1968 M P L J 837	72 I T R 417	1969 M P W R 275
1969 Jab L J 765	1968 Jab L J 1068	1969 Jab L J 708	1969 Jab L J 330
13 [CN 5]	18 Fac L R 27	74 [CN 25]	1969 Lab I C 665
1968 M P L J 618	(1969) 1 Lab L J 708	1968 M P W R 888	127 [CN 35]
1968 M P W R 578	1969 Lab I C 276	1968 M P L J 913	1969 M P L J 69
1968 Jab L J 885	48 [CN 16]	1969 Jab L J 149	1969 M P W R 382
15 [CN 6]	1968 M P W R 934	39 Com Cas 657	1969 Jab L J 435
1968 M P L J 651	1968 M P L J 919	78 [CN 26]	130 [CN 36]
1968 M P W R 690	1969 Jab L J 155	1968 Jab L J 790	1968 M P L J 251
1969 Jab L J 135	50 [CN 17]	1968 M P L J 766	1968 M P W R 401
20 [CN 7]	1969 M P L J 48	1968 M P W R 908	1969 Jab L J 157
1968 M P L J 398	1969 M P W R 353	82 [CN 27]	134 [CN 37]
1968 Jab L J 530	72 I T R 630	70 I T R 439	1969 Jab L J 293
1968 M P W R 432	1969 Jab L J 753	1969 M P L J 155	1969 M P L J 228
1969 Cri L J 201	53 [CN 18]	1969 M P W R 210	1969 M P W R 325
23 [CN 8]	1968 M P W R 857	1969 Jab L J 807	24 S T C 1
1968 Jab L J 717	1968 M P L J 895	89 [CN 28]	141 [CN 38]
1968 M P W R 862	1969 Jab L J 20	1968 M P W R 781	1968 M P L J 782
1968 M P L J 685	(1969) 23 S T C 508	1968 M P L J 828	1968 M P W R 719
1969 Cri L J 204	56 [CN 19]	1969 Jab L J 274	1968 Jab L J 1033
25 [CN 9]	1968 Jab L J 166	1969 A C J 3	143 [CN 39]
1968 M P L J 668	1968 M P L J 693	92 [CN 29]	1968 M P W R 740
1968 Jab L J 901	60 [CN 10]	1969 M P L J 60	1968 M P L J 833
1968 M P W R 761	1968 M P L J 757	1969 M P W R 169	1968 Jab L J 1073
28 [CN 10]	1968 Jab L J 1054	1969 Jab L J 748	1969 Serv L R 136
1968 M P L J 621	1969 Lab I C 427	96 [CN 30]	1969 Lab I C 953
1969 M P W R 69	1968 Serv L R 870	1969 Jab L J 172	145 [CN 40]
32 [CN 11]	1969 M P W R 334	1969 M P W R 223	1969 M P L J 164
1968 M P L J 840	62 [CN 21]	1969 Cri L J 748	1969 M P W R 175
1968 M P W R 11	1968 M P W R 808	1969 M P L J 436	72 I T R 242
1969 Jab L J 227	1968 Jab L J 1064	100 [CN 31]	1969 Jab L J 713
		1969 M P L J 61	

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
147	[CN 41] 1969 M P L J 86 1969 M P W R 141 1969 Jab L J 234 1969 Cri L J 980	186	con 1969 M P W R 152	210	[CN 53] 1969 Jab L J 200 1969 M P L J 12 1969 M P W R 145	229	con 1969 Jab L J 849
150	[CN 42] 1968 M P L J 854 1969 M P W R 494	190	[CN 48] 1969 Jab L J 238 1969 M P L J 237 1969 M P W R 266 1969 A C J 164	213	[CN 54] 1969 Jab L J 289 1969 M P L J 244 1969 M P W R 238 23 S T O 449	232	[CN 59] 1969 Jab L J 541 1969 M P W R 476 1969 M P L J 434
174	[CN 43] 1969 M P L J 146 1969 M P W R 216 1969 Jab L J 433 1969 Lab I C 1117	196	[CN 49] 1968 M P L J 798 1968 Jab L J 1095 18 Fac L R 22 1969 M P W R 337 (1969) 1 Lab L J 840 1969 Lab I C 1204	216	[CN 55] 1969 M P L J 319 1969 Serv L R 340 1969 M P W R 579 1969 Lab I C 1211 1969 Jab L J 1071	234	[CN 60] 1969 Jab L J 392 1969 M P W R 645 1969 M P L J 365
176	[CN 44] 1969 Jab L J 179 1969 M P W R 296 1969 M P L J 5.6	200	[CN 50] 1969 Jab L J 18 1969 M P L J 33 1969 M P W R 54 1969 Lab I C 1207 (1969) 2 Lab L J 275	220	[CN 56] 1969 M P L J 404 73 I T R 263 1969 Jab L J 732 1969 M P W R 697	241	[CN 61] 1969 Jab L J 699 1969 M P L J 430 1969 M P W R 868
182	[CN 45] 1969 M P W R 67 1969 Jab L J 142 1969 M P L J 145	204	[CN 51] 1969 M P L J 95 1969 M P W R 7 1969 Jab L J 635	227	[CN 57] 1969 Jab L J 286 1969 M P L J 281 1969 M P W R 293 23 S T O 477	243	[CN 62] 1969 M P W R 773 1969 M P L J 813 (Notes) 99
183	[CN 46] 1969 Jab L J 256 1969 M P L J 208 1969 M P W R 447	207	[CN 52] 1969 Jab L J 109 1969 M P L J 104 1969 M P W R 218 24 S T C 155	229	[CN 58] 1969 M P W R 473 1969 M P L J 395	248	[CN 63] 1969 M P L J 56 1969 M P W R 29 1969 Jab L J 759 1969 Lab I C 1479 36 Fac L R 357
186	[CN 47] 1969 Jab L J 193 1969 M P L J 149					252	[CN 64] 1969 Jab L J 530 1969 M P W R 462 1969 M P L J 539

Other Journals = All India Reporter

ILR (1966) M P

(Not received)

ILR (1967) M P

(Not received)

ILR (1968) M P

(Not received)

ILR (1969) M P

(Not received)

1968 Jab L J

Jab L J	AIR
530 1969 Madh	20
586 " " Pra	56
583 " " "	44
717 " " "	23
721 " " "	23
790 " " "	78
901 " " "	25
1015 " Lab	
IC 728	
1016 " MP	43
1033 " " 141	
1054 " " 60	
1064 " " 62	
1088 " " 46	
1073 " " 143	
1095 " " 196	

1969 Jab L J

Jab L J	AIR
1 1969 SO	78
20 " MP	53
32 " SO	4
46 1968 " 676	
53 " " 1299	
68 1969 MP	200
75 1969 SO	860
102 " " 642	
109 1969 MP	207
122 " Lab IO	892
123 1968 MP	168
129 " SC	1458
135 1969 MP	15
142 " " 182	
149 " " 74	
155 " " 48	
157 " " 130	
179 " " 96	
179 " " 176	
188 1970 " 36	
193 1969 " 186	
200 " " 210	
219 " Lab IO	123
227 " MP	32
234 " " 147	
238 " " 190	
256 " " 183	
274 " " 89	
286 " " 227	
289 " " 213	
293 " " 134	
330 " " 114	
385 1970 " 39	
392 1969 " 234	

1969 Jab L J

Jab L J	AIR
403 1969 SO	953
414 1966 " 1971	
420 1969 MP	110
433 " " 174	
433 " " 127	
441 " SO	395
449 " Lab IO	725
455 " " 783	
460 " SO	913
467 1970 MP	34
471 1969 " 105	
479 " SO	401
485 " " 549	
493 " " 235	
514 " " 579	
520 " " 496	
525 " Cri L J	

530 " MP	1291
530 " " 252	
537 1970 " 14	
541 1969 " 232	
560 1970 " 40	
622 1969 " 65	
635 " " 204	
651 1970 MP	44
664 1969 " 35	
699 " " 241	
708 " " 72	
713 " " 145	
732 " " 220	
748 " " 92	
753 " " 50	
759 " " 248	
765 " " 9	
792 " " 68	
798 " " 100	
807 " " 82	
818 1970 SO	93
837 1969 " 1276	
849 " MP	229
859 1970 " 1	
865 " SO	158
876 " MP	29
918 " " 26	
922 " " 5	
933 " " 33	
935 " " 23	
1028 1970 SO	343
1071 1969 MP	216
1095 1970 " 63	

1968 M P L J

MPLJ	AIR
251 1969 MP	130
398 " " 20	
621 " " 28	
638 " " 25	
685 " " 23	
693 " " 56	
698 " " 44	
737 " Lab IO	728
753 " MP	43
757 " " 60	
766 " " 78	
782 " " 141	
798 " " 196	
828 " " 89	
833 " " 143	
837 " " 46	
840 " " 32	
854 " " 150	
890 " Lab IO	725

1968 M P L J

MPLJ	AIR
695 1969 MP	53
918 " " 75	
919 " " 48	
937 " Lab IO	892

1969 M P L J

MPLJ	AIR
1 1969 SO	78
17 " MP	55
27 " " 68	
33 " " 200	
38 " " 62	
41 " " 72	
44 1968 " 229	
48 1969 " 50	
56 " " 248	
61 " " 100	
69 " " 127	
86 " " 147	
90 " " 92	
95 " " 204	
104 " " 207	
109 1968 SO	938
125 1969 MP	7
128 " " 210	
132 " " 65	
136 " Lab IO	783
145 " MP	182
146 " " 174	
149 " " 186	
155 " " 82	
164 " " 145	
166 " " 114	
200 " SO	4
208 " MP	183
212 1968 SO	850
224 1969 MP	213
228 " " 184	
237 " " 190	
252 1968 SO	1458
256 1970 MP	34
260 1968 SO	1323
265 " " 1267	
271 " " 1413	
281 1969 MP	227
284 1968 SO	676
321 1970 MP	39
339 1969 " 216	
346 " SO	255
355 " " 313	
361 1970 MP	36
365 1969 " 234	
374 " " 105	
381 1968 SO	894
385 " " 881	
395 1969 MP	229
404 " " 220	
421 " SC	1276
425 " " 579	
430 " MP	241
434 " " 232	
436 " " 96	
442 1970 " 40	
449 1969 SO	395
465 " " 401	
479 " " 953	
488 " MP	110
493 " SO	549
516 " MP	176

1969 M P L J

MPLJ	AIR
524 1969 Cri L J	129
529 1968 SO	1390
539 1969 MP	252
565 1970 " 14	
598 1968 SO	366
611 1970 MP	63
621 1970 " 16	
639 " " 5	
672 " " 1	
699 1970 Lab IO	90
706 " SC	158
728 " MP	25
737 " " 29	
737 1970 " 55	
747 " " 23	
793 " SC	161
799 1969 " 496	
808 1970 MP	33
813 1969 " 243	
820 " SO	590
834 " MP	49
858 " SC	343
874 1970 " 93	
945 1968 " 1461	

1967 M P L J

(Notes)

MPLJ (Notes)	AIR
89 1969 MP	243

1969 M P L J

(Notes)

MPLJ (Notes)	AIR
6 1957 MP	1
34 1968 Cri L J	1373
59 1969 SO	40

1967 M P W R

MPWR	AIR
1 1967 SO	1134
8 " " 553	
11 " MP	262
18 1968 " 20	
20 1967 " 201	
30 " SC	540
34 1968 MP	39
34 1957 SC	1326
42 " MP	94
43 " " 127	
46 " " 52	
51 " SC	523
55 " " 1033	
57 " " 1342	
59 " " 1105	
64 " " 1170	
69 " " 1348	
74 " " 272	
79 " MP	200
80 " " 255	
82 " " 210	
85 " " 120	
87 " " 167	
91 " SC	559
101 " " 1032	
106 " MP	246
111 " " 204	
113 " " 206	
116 " " 197	

1967 M P W R

M P W R	AIR
121 1967 MP	49
126 " " 85	
133 " " 182	
137 " SC	1264
146 1968 MP	13
156 1967 " 215	
161 1968 " 10	
190 1967 SO	285
196 " MP	177
203 " " 265	
208 " " 278	
214 " SC	1124
222 " MP	284
233 " " 234	
239 " " 239	
247 " SO	1344
265 1965 MP	225
280 1967 SJ	1193
285 1968 MP	4
294 1967 " 221	
314 " SC	1315
318 1968 MP	24
321 1967 SO	1386
325 " " 1253	
329 " MP	286
334 " " 211	
348 " SC	1454
354 " " 1156	
364 1966 MP	324
369 1967 SO	608
376 1968 Cri L J	414
379 1967 MP	181
402 1968 " 17	
407 1967 SO	1384
409 1958 MP	77
419 " " 72	
433 1967 SO	1162
439 1968 MP	26
444 " " 36	
453 " " 33	
459 " " 57	
487 " " 1	
493 " " 103	
500 " " 112	
506 " " 138	
511 1967 SO	448
516 1968 MP	42
526 1967 SC	1401
538 " MP	275
553 " SO	1643
661 " MP	180
666 " " 194	
678 1968 " 47	
697 1967 SO	565
703 " MP	6
742 " " 173	

1968 M P W R

MPWR	AIR
1 1968 SO	240
6 " MP	116
25 " SC	565
27 " MP	107
36 " " 87	
41 " " 97	
61 1967 SC	1167
64 1968 MP	94
76 " " 118	
82 " " 127	

1968 M P W R			1968 M P W R			1968 M P W R			1969 M P W R			1969 M P W R		
MPWR	AIR		MPWR	AIR		MPWR	AIR		MPWR	AIR		MPWR	AIR	
91 1968	MP	182	424 1968	SO	728	766 1968	MP	159	141 1969	MP	147	418 1969	MP	297
96 " "	"	89	432 1969	MP	20	773 " "	"	4	145 " "	"	210	420 1968	"	1292
107 " "	SO	384	452 1968	SO	881	778 " "	EC	1270	149 1970	"	34	428 1969	"	395
113 " "	MP	168	456 " "	"	954	781 1969	MP	89	162 1969	"	186	447 " "	MP	183
119 " "	LabIC	712	463 " "	MP	172	790 1968	"	199	169 " "	"	105	458 " "	SC	583
130 " "	CriLJ	1144	468 " "	"	238	799 1967	SC	1022	169 " "	"	92	462 " "	MP	252
135 1967	SO	1815	479 " "	SO	620	808 1969	MP	62	175 " "	"	145	473 " "	"	231
144 1968	MP	135	492 1969	MP	7	826 1968	SC	1461	188 " "	SC	255	476 " "	"	150
160 " "	CriLJ	832	496 1968	"	181	842 " "	"	1458	195 " "	MP	110	494 " "	"	674
168 " "	MP	121	509 " "	SO	850	847 " "	MP	204	200 " "	SO	78	528 " "	SC	556
179 " "	LabLJ	694	537 1969	MP	1	857 1969	"	53	216 " "	MP	174	531 " "	"	589
191 " "	CriLJ	1002	541 1968	SC	894	885 " "	SC	30	218 " "	"	267	561 " "	"	210
195 " "	SO	450	547 " "	MP	212	888 " "	MP	74	223 " "	"	98	579 " "	MP	1
199 " "	MP	185	562 1969	"	23	894 1968	SC	1299	233 1970	"	36	585 1970	"	422
203 1967	"	280	566 1968	"	215	908 1969	MP	78	238 1969	"	213	590 1969	SC	549
221 1968	"	208	575 " "	"	254	914 1968	"	148	260 " "	"	82	603 " "	"	49
228 " "	SC	579	578 1969	"	13	917 " "	LabIC	1369	260 " "	SC	253	613 1970	MP	590
240 " "	"	266	587 1968	SC	642	921 1969	SC	4	262 " "	"	193	622 1969	SC	5
249 1964	MP	234	606 " "	"	707	924 1968	MP	150	266 " "	MP	190	633 1970	MP	284
253 1968	SO	410	609 " "	LabIC	1558	934 1969	"	48	275 " "	"	114	645 1969	"	65
258 " "	"	494	615 " "	SC	1186	936 1968	"	225	293 " "	"	227	661 1970	"	40
262 1964	MP	234	633 " "	"	1218	1969 M P W R			296 " "	"	176	671 " "	"	220
264 1968	"	175	638 " "	"	1203	MPWR AIR			303 " "	"	85	697 1969	"	33
271 " "	SO	117	645 " "	MP	196	2 1968	SC	1281	307 " "	"	100	714 1970	"	23
282 " "	"	16	660 1969	CriLJ	80	7 1969	MP	204	315 " "	SC	313	716 " "	"	26
284 " "	MP	29	666 1968	SC	1079	11 " "	"	32	318 1968	"	1509	751 " "	"	29
295 " "	"	188	678 " "	LabIC	1483	16 " "	LabIC	783	325 1969	MP	134	755 " "	"	243
302 " "	"	220	682 " "	SC	1053	27 1968	MP	228	334 " "	"	60	773 1969	"	868
326 1967	SC	1390	690 1969	MP	15	29 1969	"	248	337 " "	"	176	868 " "	"	872
331 1968	CriLJ	834	697 1968	"	229	35 " "	"	35	344 " "	SC	579	872 " "	SC	877
342 " "	MP	144	701 " "	"	155	54 " "	"	200	349 " "	"	496	877 " "	"	211
352 " "	"	81	713 1969	"	43	61 " "	SC	53	353 " "	MP	50	884 1970	"	913
376 " "	"	252	715 " "	"	46	67 " "	MP	182	358 " "	SC	401	913 1969	"	929
378 " "	LabIC	1326	719 " "	"	141	69 " "	"	28	362 " "	"	258	929 1968	MP	192
388 " "	MP	247	722 " "	"	234	88 1968	SC	1393	373 " "	"	474	932 " "	"	165
398 " "	SO	876	733 " "	LabIC	725	90 1969	"	7	376 1968	MP	140	938 " "	"	1275
401 1969	MP	130	739 " "	"	728	92 1968	"	1273	381 1970	"	39	989 1969	SC	1256
409 1968	"	232	740 " "	MP	143	99 1969	LabIC	892	382 1969	"	127	981 " "	"	14
421 " "	SC	920	761 " "	"	25				412 " "	LabIC	123	1004 1970	MP	

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[Vol. 56]

MADRAS SECTION

WITH COMPARATIVE TABLES FOR

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MADRAS HIGH COURT

1969

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NOMINAL TABLE

Alagappa Chettiar AL. CT. v. Revenue Divisional Officer, Chidambar (May) 183	Godrej & Boyce Mfg. Co. Pvt. Ltd. v. Special Tahsildar Land Acqui- sition, Industrial Estates (Aug) 305
Andhra Perfumery Works v. Karu- pakula Suryanarayaniah (Apr) 126	Govindasami Pillai v. T. M. Srinivasa Chettiar (May) 172
Angalamman Transports, Musiri, Tiruchirapalli v. M. P. Roadways (P) Ltd. (Sep) 356	Innasi Udayar v. S. Chinnasamy Raju (decd.) (Nov) 428
Annavi Moopan v. Munia Moopan (Nov) 437	International Oil Co. v. Indian Oil Co. Ltd. (Nov) 423
Arumugham Pillai v. A. Ilango (Jul) 252	Jagajothi Mudaliar, P. v. Gopala- swami Gounder (Mar) 81
Arumugha Udayar v. Villiammal (Mar) 72	K. C. P. Ltd. v. K. C. P. Employees Association (Oct) 370
Balasubramaniam v. Rathinam (Oct) 380	Kaluvaroya Pillai v. Ganesa Pandi- than (Jul) 248
Baliah, T. S. v. T. S. Rangachari (May) 145	Kamatchi Ammal v. Athigamudaya Pillai (Nov) 426
Batcha Saheb, B. v. Secretary, Regio- nal Transport Authority North Arcot (Jun) 223	Kodaikanal Motor Union (P) Ltd. v. Madurai Motor Labourers' Union (Oct) 374
Bella Gouder N. v. Tahsildar of Coonoor (Apr) 143	Kosalram, K. T. v. Santhosham (Apr) 116
Bhagavathi Mudaliar v. N. Subra- maniam (Aug) 317	Krishnamurthi and Company, Tirup- pur v. State of Madras (Jul) 265
Bhaktavatsalam, C. v. V. Govinda- rajulu (May) 177	Krishnaswamy, S. v. South India Film Chamber of Commerce (Feb) 42
Chelpark Company Ltd. v. Commissioner of Police, Madras (Feb) 33	Kulandaiswami Madurai v. Muru- gayya Madurar (Jan) 14
Chief Controlling Revenue Autho- rity, Madras v. Canara Indus- trial and Banking Syndicate Ltd. (Jan) 1 (FB)	Kulandaivelu In re (Nov) 408
Chinna Pillai v. N. Govindaswami Naidu (May) 191	Kumbakonam Electric Supply Corpo- ration Ltd. v. Presiding Officer, Labour Court Madras (Nov) 407
Chinnappa Gounder v. Valliammal (May) 187	Kuppuswami Chettiar, M. v. State (June) 233
Chockalingam Chettiar, S. R. v. Com- missioner of Gift Tax Madras (Aug) 302	Loganathan v. Ponnuswami Naicker (Jan) 15
Commissioner of Income-tax (Central), Madras v. S. Sivarama- krishna Iyer (Aug) 300	Madras District Automobile and General Employees' Union v. State of Madras (Dec) 477
Dakshinamoorthy, K. v. District Signal Telecommunication Engi- neer (Works) Perambur (Jun) 201	Mahalakshmi Textile Mills, Pasuma- lai v. Government of Madras (Jul) 273
Danmull Sowcar V. v. Syed Ali Mohamed (Jun) 214	Mahesh, K. v. Commissioner of In- come-tax, Madras (Mar) 69
Deputy Commissioner of Commer- cial Taxes, Madurai Dn. v. Arasan Match Industries, Sivakasi (Nov) 422	Mahomed Haneefa v. Mariam Bi (Nov) 414
Devasahayam, C. S. v. Government of Madras (Apr) 118	Meiyappan, A. V. v. Commissioner of Commercial Taxes, Board of Revenue, Madras (Jul) 284
Doriaswami Reddiar v. Venkatakrish- na Reddiar (Mar) 84	Mottur Hajee Abdul Rahman and Co. v. Deputy Commercial Tax Officer, Vaniyambadi (Jun) 232
Eswari Pilai v. Madhavan Pillai (June) 227	Munikrishna Reddy v. S. K. Rama- swami (Oct) 389
Fraser and Ross v. Sambasiva Iyer (Apr) 134	Nagayasami Naidu v. Kochadai Naidu (Sep) 329
Ganapathia Pillai v. Swaminatha Pillai (Nov) 440	Official Receiver of Ramanathapu- ram at Madurai v. AR. RM. Sub- ramaniam Chettiar (Oct) 382
Ganesh Babu, Minor v. K. S. Radha- krishnan (Nov) 416	Pakke v. P. Aivasami Ganapathi (Sep) 351
Gnanavelu, T. V. v. D. P. Kannayya (May) 180	Paramasami Pillai v. Sornathammal (Apr) 124
Gobald Motor Services (P.) Ltd., Mettupalayam v. Regional Trans- port Authority, Coimbatore (Nov) 441	Peeran Sahib C. S. v. State Wakf Board (Sep) 350

Periakaruppan, V. P. v. P. Mayala- gan (Mar) 83	Sivaraman v. P. M. Shanmugha- sundara Mudaliar (May) 166
Peria Mannadha Goundar v. Marappa Goundar (Nov) 411	Sivasankara Mehta v. Bagwandas Arjunal (Apr) 112
Perumal Naicker v. T. Ramaswami Kone (Sep) 346	Spencer & Co. Ltd., Madras v. Commissioner of Wealth Tax Madras (Sep) 359
Perumal Naidu v. Krishnaswami Naidu (Mar) 90	Sri Raja Rajeswari Bus Service Vridhachalam v. Regional Trans- port Authority South Arcot Cuddalore (Dec) 458
Pharm Products Ltd., Thanjavur v. District Revenue Officer, Thanja- vur (Nov) 448	State of Madras v. S. Krishana (Mar) 93
Pothulingam Pillai, S. K. v. Nagoor Meeran Rowther (Mar) 94	Subbae Gounder v. Palanathal (Jun) 204
Presidency Talkies v. N. S. Nataraja- jan (Apr) 121	Subramaniam C. v Speaker of the Madras, Legislative Assembly (Jan) 10 (FB)
Presidency Talkies Pvt. Ltd. v. Presiding Officer, Labour Court, Madras (Mar) 87	Super Surgical Co. v. S. Desikan (Nov) 406
Public Prosecutor v. Abdul Wahab (Jul) 280	Syed Mustafa Peeran Sahib v. State Wakf Board, Madras (Mar) 66
Rahmath Bibi, K. M. v. First In- come-tax Officer, Nagapattinam (Jun) 208	Thangavelu Pillai S. v. E. M. Mani (Aug) 316
Rajagopala Iyer, T. R. v. T. R. Ramachandra Iyer (Apr) 144	Thirumurthi Chettiar P. v. State of Madras (Mar) 91
Rajagopal Naidu, V. v. Muthulak- shmi Ammal (Jan) 5	Tirumalaisami, Naicker v. Villagers of Kadambur, Athur Taluk (Apr) 108
Ramachandra Naidu v. Ramayya Naidu (Nov) 418	Union of India v. Ummer Sait (Jun) 212
Ramachandra Sarma v. Ayeesha Begum (Dec) 470	United Motor Works, Madras v. State of Madras (Sep) 322
Ramasrinivasan, R. v. Shanmugham (Oct) 378	V. Mohamed Haneef and Co. v. Regional Director, Employees' State Insurance Corporation (May) 155
Rama Swami In re (Sep) 321	Valaguru Asari In re (Mar) 85
Rangaswami Naicker v. Rangammal (Jul) 271	Valliammai Achi M. M. v. KN. PL. V. Ramanathan Chettiar (Jul) 257
Raooof, M. A. A. v. K. G. Lakshmi- pathi (Jul) 268	Varadarajulu Naidu S. R. v. Papa- nasam Labour Union, Amba- samudram (Nov) 401
Reginald Daniel v. Sarojam (Sep) 365	Vathsala v. N. Manoharan (Nov) 405
Royal Arts, Coimbatore v. State of Madras (Jun) 211	Veeraswami Mandiri v. K. Manicka Mudaliar (Jan) 27
Sahib Transport Service, Sankaran- koil v. K. Balasubramaniam (Feb) 55	Velappan Pillai v. Parappan Panickar (Aug) 309
Saradambal v. A. M. P. Arunachalam (Sep) 324	Vellinayagi v. T. Subramaniam (Dec) 479
Satyavel D. v. Kota Ranga Ramanujiah (Nov) 434	Venkataramanaswami Ayyar S. v. S. Abdul Wahab (Dec) 473
Savitri Ammal M. V. v. Secretary Revenue Department, Govt. of Madras (Jun) 217	Vira Reddi H. T. Dr. v. Kistamma (Jun) 235
Sekharan In re (Aug) 320	Weavers Mills Ltd., Rajapalayam v. Balkis Ammal (Dec) 462
Sellappa Gounder v. State of Madras (Apr) 104	Workmen of Dalmia Cement (Bharat) Ltd. v. State of Madras (Jan) 21
Seshan K. R. v. Deputy Inspector General of Police, Southern Range, Madurai (Jul) 275	
Sinnaraj Pillai v. Ramayee Ammal (Mar) 96	

SUBJECT INDEX

Arbitration Act (10 of 1940), S. 39 (2) —
Section 28 of Hindu Marriage Act does not
contain any prohibition or restriction as to
further appeal like Section 39 (2) — See
Letters Patent (Mad), Clause 16

(Jun) 235A

Central Sales Tax Act (74 of 1956)

See under Sales Tax.

Civil Procedure Code (5 of 1908), Pre. —
Interpretation of Statutes — Codifying statu-
tes — Rule of construction

(Mar) 72D

—Pre. — Interpretation of Statutes — Re-
pealing statute — Construction — Duty of
Court

(May) 145E

—Pre. — Interpretation of Statutes —
Meaning of words — Land Acquisition Act
(1894), Sections 4 (1), 40 (1) (b) — Words
“public purpose” in Section 4 (1) — Words
to be interpreted from a larger and more
comprehensive angle without being narrow-
ed down to restricted words used in Sec-
tion 40 (1) (b)

(May) 183B

—Pre. — Interpretation of Statutes —
Codifying and amending Statute — Regard
should be had only to the clear language
in the Act — See Hindu Succession Act
(1956), Preamble

(May) 187B

—Pre. — Interpretation of Statutes — “May”
— Mandatory or permissive — See Civil
Procedure Code (5 of 1908), O. 39, R. 6

(Jun) 204A

—Pre. — Interpretation of Statutes —
Ex-proprietary legislation — Generous con-
struction — See Houses and Rents — Madras
(Buildings, Lease and Rent Control) Act (18
of 1960), Section 10 (3) (a) (iii)

(Jun) 214

—Pre. — Interpretation of Statutes —
Exception — Full effect must be given to
exception provided by provision in enact-
ment — See Civil Procedure Code (5 of
1908), Order 22, Rule 4 (3) and (4) (Mad)

(Aug) 309A

—Pre. — Interpretation of Statutes —
Statute to be construed harmoniously and
not in rigidly semantic manner — See Motor
Vehicles Act (1939), Section 48 (3) (iii) and
(iv)

(Sep) 356A

—Pre. — Interpretation of Statutes —
Harmonious construction of Rules

(Sep) 356B

—Pre. — Interpretation of Statutes —
Wording of general provision cannot curtail
scope of special provision — See Civil P. C.
(1908), O. 43, R. 1 (jj)

(Oct) 389B

—Pre. — Interpretation of Statutes —
—Absence of prohibition implies permission
— See Transfer of Property Act (1882), Sec-
tion 9

(Dec) 462C

—Pre. — Maxim — Actus curiae nemi-
nem gravabit — See Hindu Marriage Act
(1955), Section 10 (1) (i)

(Jun) 235D

Civil P. C. (contd.)

—Pre. — Precedents — Interpretation —
Has to be read as whole

(Jan) 1B (FB)

—Pre. — Statute creating specific mode
for performance — Performance cannot be
done in any other manner — See Wakf Act
(1954), S. 2

(Sep) 350

—S. 2 (2) — Definition of decree excludes
order of dismissal for default — See Civil
P. C. (1908), Ss. 100-101

(Oct) 389A

—S. 9 — Madras Estates Abolition Act
(26 of 1948), Section 56 — Jurisdiction of
civil court to decide question of title to any
ryotwari land is not taken away by any
of provisions of the Act and much less by
Section 56

(Jan) 14

—S. 9 — Jurisdiction — Dispute of a
civil nature can be dealt with in Civil Courts
unless its jurisdiction is barred — Presump-
tion is in favour of Civil Courts' jurisdic-
tion — Person claiming ousting of jurisdic-
tion must establish it

(Apr) 108B

—Ss. 9 and 11 — Bar to jurisdiction of
Civil Court — Tenancy Laws — Madras
Estates Land (Reduction of Rent) Act (30
of 1947), Section 3A (4) (b) — Question
whether particular land is private land or
ryoti — Decision of Tribunal on appeal is
final and Civil Court's jurisdiction is ex-
pressly barred — Writ petition challenging
order of Tribunal — Dismissal on ground
that proper remedy is by suit — Order can-
not confer jurisdiction on Civil Court by in-
voking principle of res judicata

(May) 172C

—S. 9 — Exclusion of jurisdiction of Civil
Court — When can be interred

(May) 191D

—S. 9 — Administration of Wakf proper-
ties after enforcement of Wakf Act (1954)
— Civil Courts should not deal with matter
of administration — See Wakf Act (1954),
S. 2

(Sep) 350

—S. 9 — Decree in previous suit — When
can be set aside on ground of collusion
and fraud — See Civil P. C. (1908), S. 11

(Dec) 462A

—S. 11 — Bar of jurisdiction of Civil
Court — See Civil P. C. (1908), Section 9

(May) 172C

—S. 11 — Principle of res judicata is ap-
plicable to Labour Court and it would not
entertain fresh claim petition under Sec. 33-C
(2)

(Nov) 406

—Ss. 11 and 9 — Decree — When can
be set aside on ground of collusion and
fraud

(Dec) 462A

—S. 35 (3) — Claim for interest by way
of restitution — Right not affected by dele-
tion of sub-section (3) in 1956 — See Civil
P. C. (1908), Section 144

(Jun) 212B

—Ss. 47, 146 and Order 21, Rule 16 —
Death of decree-holder — A claiming to be
a legatee of the subject matter of the suit

Civil P. C. (contd.)

under a will executed prior to decree by the decree-holder filing execution application — Genuineness of will held should be decided in the execution proceedings itself — Sections 213 and 57 of the Succession Act did not apply to oust the jurisdiction of the executing Court as the will was executed outside the city of Madras and the property also was situated outside that city — Section 146 applied to the case and not Order 21, Rule 16, as there was no assignment of the decree under the will — ILR (1964) 2 Mad 363, Diss.

(Jul) 271
—S. 51 (b) and Order 21, Rule 46 — Attachment of shares — Jurisdiction of executing Court — Judgment-debtor residing within limits of jurisdiction — Executing Court can attach shares — Fact that place of business of Company is outside the jurisdiction, is immaterial (Jul) 268

—S. 60 (1), Proviso, Cl. (h) — Bonus — It would be included in wages — Payment of bonus though it is conditional on payment of wages, once it is paid, it has true attribute of wages cannot be attached (Nov) 440B

—S. 91 — Nuisance — Village tank used for bathing and for drinking water by villagers — Defendant establishing salt-pans in tank bed — Representative suit can be filed to get redress — See Tort — Nuisance (Sep) 351

—S. 100 — Finding of fact — Amount awarded as damages for use and occupation is a finding of fact — Its correctness cannot be canvassed in second appeal (May) 172B

—S. 100 — High Court in Letters Patent appeal can interfere with finding of fact of single Judge but not lightly — See Letters Patent (Mad), Clause 16 (Jun) 235A

—Ss. 100-101, O. 43, R. 1 (u) — Lower Appellate Court substituting its own judgment and decree to that of trial Court and remanding case — Remedy — Remedy is to file a second appeal and not an appeal under Order 43, Rule 1 (u) (Jul) 248B

—Ss. 100 and 101 — Question of fact — Question of Benami is a question of fact — When the decision of the lower court is given on merits, on consideration of well-recognised principles for determination findings will not be interfered with in second appeal (Jul) 252B

—S. 100 — Finding of fact — Finding as to non-reconstitution of firm after its dissolution is one of fact (Jul) 257A

—Ss. 100-101, 2 (2) and O. 21, R. 104 (2) (as added in Madras) — Applicability — Application for setting aside sale — Order dismissing said application for default — Definition of Decree excludes order of dismissal for default — Assuming that first appeal lay, no second appeal lies (Oct) 389A

Civil P. C. (contd.)

—Ss. 101-101 — Question of fact — Agreement between landlord and tenant to pay enhanced rent — Finding of lower Court as to truth or otherwise of such agreement is essentially question of fact — High Court sitting in second appeal has to accept it (Dec) 473A

—S. 105 and Order 21, Rule 90 — Application for setting aside sale under O. 21, R. 90 — Interim order asking applicant to furnish security — Failure to furnish security — Final order dismissing application for setting aside sale dismissed — Appeal against final order — Correctness of interim order can be questioned in appeal against final order — AIR 1952 Trav-Co 316, Doubtful (Sep) 324A

—S. 107 (2), O. 41, R. 27 (1) (b) — Power of appointment of Commissioner in appeal — When should be exercised (Apr) 144

—S. 114 — Order refusing leave to file Letters Patent Appeal — Not reviewable — AIR 1963 Andh Pra 18, Diss. — See Letters Patent (Madras), Clause 15 (Jun) 227B

—S. 115, Order 21, Rule 66 — Finding of fact — Finding as to service of notice to judgment-debtor — Finding is binding in revision (Jan) 5C

—S. 115 — Lower Court deciding a question within its jurisdiction — It is binding on High Court in revision (May) 191B

—S. 115 — Specific Relief Act (1877), Section 9 — Judgment and decree under Section 9 — Revision is maintainable. (1959) 72 Mad LW 361 and AIR 1926 Mad 18 and AIR 1934 All 541, Not foll.

(May) 191G
—S. 115 — Decision of lower Court based on total absence of legal evidence — Amounts to exercise of jurisdiction, illegally or with material irregularity — Interference in revision can be made (Aug) 317B

—S. 115 (b) — Lower appellate Court not exercising jurisdiction on ground that no appeal lay — High Court can interfere in revision — See Civil P. C. (1908), Order 43, Rule 1 (jj) (Oct) 389B

—S. 144 — Right of restitution — Nature of — Specific direction from appellate court not necessary (Jun) 212A

—Ss. 144 and 35 (3) — Right of party to claim interest by way of restitution — Deletion of sub-section (3) of Section 35 in 1956 — Right to claim interest not affected (Jun) 212B

—S. 146 — Execution taken out by legatee of deceased decree-holder — Genuineness of will held should be decided in execution proceedings itself — Sections 213 and 57 Succession Act, did not apply to oust jurisdiction of executing Court — Sec. 146 applied and not Order 21, Rule 16 — ILR (1964) 2 Mad 363, Dissented from — See Civil P. C. (1908), Section 47. (Jul) 271

Civil P. C. (contd.)

—O. 1, R. 1 — Election petition — Whether proper or necessary party — See Representation of the People Act (1951), Section 82 (Apr) 116

—O. 1, R. 3 — Election petition — Whether proper and necessary party — See Representation of the People Act (1951), Section 82 (Apr) 116

—O. 1, R. 8 — Nuisance — Village tank used for bathing and for drinking water by Villagers — Defendant establishing salt-pans in tank bed — Representative suit can be filed to get redress — See Tort — Nuisance (Sep) 351

—O. 1, R. 9 — Plaintiff filing suit against 'A' and 'B' — 'A' is one of the trustees of a temple — B is tenant of property which 'A' claims as temple property and which plaintiff claims it in his own right — 'A' is sued in his personal capacity — No necessity to join other trustees as parties (Apr) 108D

—O. 1, R. 10 — Election petition — Whether proper or necessary party — See Representation of the People Act (1951), Section 82 (Apr) 116

—O. 6, R. 17 — Lesser relief at appellate stage — See Hindu Marriage Act (1955), S. 10 (Jun) 235C

—O. 7, R. 7 — Power of Court to grant relief not covered by issues (Sep) 329D

—O. 11, R. 14 — Production of documents — Objection to — Record of public speech made by Police Officer — Does not render it privileged — See Evidence Act (1872), Section 123 (Oct) 378A

—O. 17, R. 1 — Sufficient cause — Counsel engaged in defending sessions case, having been engaged by State for that purpose — It is sufficient cause for adjournment (Oct) 389C

—O. 20, R. 4 — Interpretation of judgment — Judgment has to be read as a whole — See Civil Procedure Code (5 of 1908), Pre. (Jan) 1B (FB)

—O. 20, R. 4 — Matrimonial causes — Duty of Court — They do not exist for the sake of discipline, but for the sake of deciding matters in controversy (Jun) 235J

—O. 20, R. 9 — Purchase of certain property by defendant 1 in execution of decree against defendant 2 — Finding by Court in suit by plaintiff for possession of property claiming the same to be his, that plaintiff is entitled to that property and also to recover possession — Direction by Court that plaintiff to deposit purchase money before recovering possession is invalid (obiter) (Dec) 462D

—O. 21, R. 16 — Legatee of deceased decree-holder taking out execution — Genuineness of will can be determined in execution proceedings itself — Section 146 applied and not Order 21, Rule 16 — ILR (1964) 2 Mad 363, Dissented from — See Civil P. C. (1908), Section 47 (Jul) 271

Civil P. C. (contd.)

—O. 21, R. 22 — Applicability to recovery proceedings under Income-tax Act (1961), — See Income Tax Act (1961), Section 179. (Apr) 143

—O. 21, R. 35 (2), 96 — Undivided interest of coparcener sold in execution — Symbolical possession delivered to purchaser — Symbolical delivery though not correct in law does interrupt adverse possession against purchaser — AIR 1955 Mad 288 and AIR 1964 Mad 53 (FB), held impliedly overruled by AIR 1966 SC 470 (Mar) 81

—O. 21, R. 46 — J. D. residing within limits of jurisdiction — Executing court can attach shares — Fact that business of company is outside jurisdiction, is immaterial — See Civil P. C. (1908), Section 51 (b) (Jul) 268

—O. 21, R. 66 (as amended in Madras) and 69 — Judgment-debtor not personally served with notice of sale proclamation nor given opportunity to substantiate inadequacy of value — Value given by decree-holder misleading — Held, considerable prejudice was caused to judgment-debtor and sale was to be set aside (Jan) 5B

—O. 21, R. 66 — Finding as to service of notice to J. D. — Is finding of fact — Binding in revision — See Civil P. C. (1908), S. 115 (Jan) 5C

—O. 21, R. 66 (as amended in Madras) — Service of notice to judgment-debtor in suspicious circumstances and not beyond reasonable doubt — Judgment-debtor cannot be presumed to have at particular point of time, all information about defective proclamation of sale (Jan) 5D

—O. 21, R. 66 (as amended in Madras) — Duty of Court — It is to send out completed sale proclamation containing details as required in law and also to avail itself of all information from records in court (Jan) 5E

—O. 21, R. 66 (as amended in Madras) — Irregularities in sale proclamation — Waiver — Estoppel — See Evidence Act (1 of 1872), Section 115 (Jan) 5F

—O. 21, R. 66 (2) (e) (as amended in Madras) — Requirement mandatory — Sale proclamation not disclosing two valuation i. e. both of decree-holder and that of judgment-debtor — Proclamation suffers from irregularity not curable by acquiescence (Jan) 5A

—O. 21, R. 69 (as amended in Madras) — Setting aside of sale for prejudice to judgment-debtor — See Civil P. C. (1908), O. 21, R. 66 (Jan) 5B

—O. 21, R. 69 — Irregularities in sale proclamation — Waiver — Estoppel — See Evidence Act (1 of 1872), Section 115 (Jan) 5F

—O. 21, R. 89 — Application under Rules 89, 90 or 91 — Disallowance of for default — Effect on Rule 92 — See Civil P. C. (1908), Order 43, Rule 1 (ii) (Oct) 389B

Civil P. C. (contd.)

—O. 21, R. 90 — Application for setting aside sale — Interim order to furnish security — Dismissal of application — Appeal — Correctness of interim order can be challenged in appeal — See Civil P. C. (1908), S. 105 (Sep) 324A

—O. 21, R. 90 (Madras) — Proviso to the Rule is attracted to a case of mortgage decree (Sep) 324B

—O. 21, R. 90 (Madras), Proviso — Mortgage decree — Order to furnish security — Security can be demanded only if the Court comes to conclusion that value of property will not be sufficient to cover liability on property including amount for which property was sold (Sep) 324C

—O. 21, R. 90 (Madras), Proviso — Petition to set aside sale — Notice issued to respondent — Jurisdiction of Court to demand security after issue of notice (Sep) 324D

—O. 21, R. 90 — Application under Rules 89, 90 or 91 — Disallowance of for default — Effect on Rule 92 — See Civil P. C. (1908), Order 43, Rule 1 (jj) (Oct) 389B

—O. 21, R. 91 — Words “where such application was made and disallowed” in Rule 92 — Include dismissal for default of application under Rule 91 — See Civil P. C. (1908), Order 43, Rule 1 (ji) (Oct) 389B

—O. 21, R. 92 — Words “Where such application was made and disallowed” in Rule 92 — Include dismissal for default of application under Rule 91 — See Civil P. C. (1908), Order 43, Rule 1 (ji) (Oct) 389B

—O. 21, R. 96 — Sale of undivided coparcenary interest in execution — Delivery of possession — Symbolical delivery given to purchaser — Effect — See Civil P. C. (1908), O. 21, R. 35 (2) (Mar) 81

—O. 21, R. 98 — Dismissal of claim under — Unsuccessful party should file a suit within one year to establish his right claimed — See Civil P. C. (1908), Order 21, Rule 103 (May) 166

—O. 21, Rr. 103 and 98 — Scope — Order of dismissal of claim under Order 21, Rule 98 — Unsuccessful party should file a suit within one year to establish his right claimed — Order 21, Rule 103 does not require him to establish his right within one year — Only suit is required to be filed within one year — AIR 1937 Mad 582 and AIR 1950 Mad 19, held overruled by AIR 1949 Mad 586 (FB); AIR 1960 Cal 580, Dissented from (May) 166

—O. 21, R. 104 (as added in Madras by P. Dis. No. 397 of 1945) — Effect of addition of Madras Rules — Right of appeal given under Order 43, Rule 1 (j) not affected — See Civil P. C. (1908), O. 43, R. 1 (ji) (Oct) 389B

—O. 21, R. 104 (2) (as added in Madras) — Effect of addition — See Civil P. C. (1908), Section 100-101 (Oct) 389A

Civil P. C. (contd.)

—O. 21, R. 105 (as added in Madras by P. Dis. No. 397 of 1945) — Effect of addition of Madras Rules — Right of appeal given under O. 43, R. 1 (j) not affected. — See Civil P. C. (1908), Order 43, Rule 1 (jj) (Oct) 389B

—O. 22, R. 4 — Pro forma respondent — Where deceased respondent had no interest in the litigation, rule providing for abatement does not apply (Aug) 309B

—O. 22, R. 4 — Suit for declaration of title and recovery of possession — Joint and indivisible decree — Appeal — Two of the appellants dying during pendency of appeal — Legal representatives not brought on record — Held decree being joint and indivisible once appeal had abated against one or more of appellants, appeal by other appellants could not be proceeded with (Nov) 428A

—O. 22, R. 4 — Abatement of whole appeal — Principle (Nov) 428B

—O. 22, R. 4 (3) and (4) (Madras) — Provisions of Rule 4 (4) could be availed of at any time before judgment: (1955) 59 Cal WN 304 and AIR 1964 Orissa 39, Diss. from (Aug) 309A

—O. 22, R. 9 — Abatement of suit — Defendant cannot agitate same questions in subsequent suit. (1904) 6 Bom LR 638, Diss. (Nov) 426

—O. 33, R. 1, Explanations (i) and (ii) (as amended by Madras High Court) — Court deciding whether plaintiff be permitted to sue as a pauper — Non-appearance of defendant — Property, subject matter of suit, cannot be taken into account under Order 33, Rule 1 Explanation (ii) (Oct) 380A

—O. 33, R. 1, Explanations (i) and (ii) (as amended by Madras High Court) — Whether property should be taken into account for granting or refusing permission to sue in forma pauperis — Question is not in the discretion of Court (Oct) 380B

—O. 33, R. 5 (d) — Application for permission to file suit as paupers — Allegations made in the application are alone to be considered (Nov) 434

—O. 38, R. 11 — Rule 11 can be relied upon for purpose of realising amount by sale of property without fresh attachment — See Presidency Towns Insolvency Act (1909), S. 9 (e) (Apr) 112

—O. 39, Rr. 1 and 2 — Interim injunction — Grant of — Declaratory suit against society — Principles stated (Feb) 42A

—O. 39, R. 2 — Interim injunction in a declaratory suit against a society — Principles stated — See Civil P. C. (1908), O. 39, R. 1 (Feb) 42A

—O. 39, Rr. 6, 7, 8 — Appointment of Commissioner ex parte — Normal rule is appointment after notice, but in exceptional cases Courts are not bereft of jurisdiction to appoint Commissioner ex parte (Jun) 204A

Civil P. C. (contd.)

—O. 39, R. 7 — Appointment of Commissioner ex parte — Validity — See Civil P. C. (1908), Order 39, Rule 6

(Jun) 204A

—O. 39, R. 7 — “Subject-matter of suit, or as to which any question may arise therein” — Suit for maintenance — Charge decree asked for over immoveable properties of husband — Immoveable properties on which charge decree was asked for, alone are subject-matter of suit and not other assets of business, which might be taken into account in order to ascertain and quantify maintenance allowance — Evidence showing that wife was trying to fish out information and dig certain illegal activities of her husband — Held Court has no jurisdiction to issue commission to take inventory of business assets and documents, to effectuate such a purpose

(Jun) 204B

—O. 39, R. 8 — Appointment of Commissioner ex parte — Validity — See Civil P. C. (1908), Order 39, Rule 6

(Jun) 204A

—O. 41, R. 23 — Remand of case on some issues — Appeal, against remand — Appellant cannot canvass all findings of fact — See Civil P. C. (1908), O. 43, R. 1 (u)

(Jul) 248A

—O. 41, R. 27 (1) (b) — Appointment of Commissioner in appeal — Power of, when should be exercised — See Civil P. C. (1908), S. 107 (2)

(Apr) 144

—O. 43, R. 1 (jj), O. 21, Rr. 104, 105 (as added in Madras by P. Dis. No. 397 of 1945), Order 21, Rules 89, 90, 91 and 92 Order 43, Rule 1 (j) and Section 115 (b) — Right of appeal — Scope — Order 43, Rule 1 (j) gives right of appeal even where application under Order 21, Rule 90 is dismissed for default — Addition of certain provisions by P. Dis. No. 397 of 1945 does not alter the position — General provision cannot curtail scope of special provision — Failure to entertain appeal — High Court can interfere in revision

(Oct) 389B

—O. 43, R. 1 (u) and O. 41, R. 23 — Scope — Remand of case on some issues — Appeal against remand — Appellant cannot canvass all findings of fact

(Jul) 248A

—O. 43, R. 1 (u) — Lower Appellate Court substituting its own judgment and remanding case — Remedy is to file second appeal and not one under Order 43, R. 1 (u) — See Civil P. C. (1908), Sections 100-101

(Jul) 248B

—O. 47, R. 1 — Order refusing leave to file L. P. Appeal — Not reviewable — AIR 1963 Andh Pra 18, Diss. — See Letters Patent (Madras), Clause 15

(Jun) 227B

CIVIL SERVICES

—Madras Civil Services (Classification, Control and Appeal) Rules (1953), R. 17 — Enquiry against one K, a Sub-Inspector of Police on probation — Charge relating to unsatisfactory work while in charge of a police station during certain period — Charge being subject matter of previous enquiry resulting in extension of probation by six months — K having been punished once, this charge ought not to have been again-made subject matter of fresh enquiry

(Jul) 275A

—R. 17 — Enquiry against a member of service — Question of termination of probation — Framing of specific charge relating to punishments accumulated — Permissible — See Civil Services — Madras State and Subordinate Services Rules, Rule 27 (c) Explan. III

(Jul) 275B

—Madras State and Subordinate Services Rules, R. 27 (c) Explan. III — Scope — Madras Civil Services (Classification Control and Appeal) Rules (1953), Rule 17 — Enquiry against a member of service — Question of termination of probation — Framing of specific charge relating to punishments accumulated — Permissible

(Jul) 275B

—Railway Establishment Code (Conduct and Discipline Rules for Railway Subordinates), R. 1712 — Right to be defended by a co-worker — Nature of right — Enquiry Officer's duty

(Jun) 201B

Companies Act (1 of 1956), S. 4 — Purchase of nearly all shares of one company by another — No extinguishment of corporate character — Each company is separate juristic entity — See Companies Act (1956), S. 34

(Sep) 359B

—S. 12 — Promoter of company — Status of — See Trusts Act (1882), Section 94

(Dec) 462B

—Ss. 34, 4 — Purchase of almost entirely of shares of one Company by another company — No extinguishment of corporate character of former Company — Each company is separate juristic entity

(Sep) 359B

—S. 46 — Promoter of company — Status of — See Trusts Act (1882), Section 94

(Dec) 462B

—S. 46 — Purchase of immovable property by promoter of Company — Adoption of benefit of purchase by Company — Absence of conveyance by promoter in favour of company under registered document — No effect on transfer of title to company — See Transfer of Property Act (1882), Section 9

(Dec) 462C

—S. 81 — New shares — Share-holder's right to — Right, not a future right — Renunciation attracts gift tax — See Gift Tax Act (1958), Section 2 (xii)

(Aug) 302

—S. 211 (2) — Company having three undertakings with separate balance-sheets

Companies Act (contd.)

and profit and loss accounts — Bonus claimed by employees of one unit — Basis of allocable surplus — Balance sheet of the whole company should be taken into account — See Payment of Bonus Act (1965), Section 3, Proviso (Oct) 370

Constitution of India, Art. 13 — Law as to privileges powers and immunity of Legislatures — Will be subject to Articles 13 and 21 but not Article 19 — See Constitution of India, Article 194 (3) (Jan) 10A (FB)

— **Art. 14** — Section 12 of Oaths Act does not offend the Article — See Oaths Act (1873), S. 12 (Mar) 90

— **Arts. 14, 15 and 16** — Employment — Equality of Treatment — Person discriminated against has right to challenge discriminatory order — Discrimination when permissible — Two tests laid down — Civil Services in Madras State — Age of superannuation in some services only, raised to fifty eight — Dearth of experienced officers and need of technically qualified officers were criteria, where retirement age was raised — Age not raised for service in Commercial Tax Department for the same reasons — Held there was no discrimination (Apr) 118

— **Art. 14** — Classification of persons who filed returns before commencement of Income Tax Act (1961) as one class and persons who filed return after commencement of Act as another, is justifiable — See Income Tax Act (1961), Section 297 (2) (b) (May) 145D

— **Art. 14** — Rule 134-A (xi), Madras Motor Vehicle Rules (1940) is ultra vires Article 14 — See Motor Vehicles Act (1939), S. 68 (1) (June) 223

— **Arts. 14 and 19 (1)** — Taxing Laws — Mere retrospective operation or peripheral and practical inequalities not sufficient to hold legislation unconstitutional (Jul) 265

— **Arts. 14, 19 and 31** — Acquisition of land for public purpose — Acquisition of lands belonging to one industrialist in order to develop them and allot them to other industrialists does not amount to acquisition for public purpose — Acquisition on the ground that the land in possession of such industrialist was far in excess of his requirement without any material to come to such conclusion is discriminatory and violative of Articles 14 and 19 — Action of Government held, was bona fide misuse of power (Aug) 305

— **Art. 14** — "Potability" as basis for distinction for levy of duty on medicinal and Toilet preparations containing alcohol — Not capricious — See Medicinal and Toilet Preparations Excise Duties Act (1955), Sch. 9, Item 1 (Nov) 448C

— **Art. 15** — Equality of treatment — Discrimination, when permissible — See

Constitution of India (contd.)**Constitution of India, Article 14**

(Apr) 118

— **Art. 16** — Equality of treatment — Discrimination, when permissible — See Constitution of India, Article 14 (Apr) 118

— **Art. 19** — Law as to powers, privileges and immunity of Legislatures — Will be subject to Articles 13 and 21 but not Article 19 — See Constitution of India, Article 194 (3) (Jan) 10A (FB)

— **Art. 19** — Compulsory acquisition — Property of A being acquired for being given to B — Both A and B industrialists — Excess of land with A not proved — Acquisition violative of Articles 19 and 14 of Constitution — See Constitution of India, Article 14 (Aug) 305

— **Art. 19 (1)** — Madras General Sales Tax (Third Amendment) Act (19 of 1967) is not unconstitutional — See Constitution of India, Article 14 (Jul) 265

— **Art. 20** — Law as to powers privileges and immunity of Legislatures — Will be subject to Articles 13 and 21 but not Article 19 — See Constitution of India, Article 194 (3) (Jan) 10A (FB)

— **Art. 21** — Law relating to powers, privileges and immunity of Legislatures — Will be subject to Articles 13 and 21 but not Article 19 — See Constitution of India, Article 194 (3) (Jan) 10A (FB)

— **Art. 31** — Compulsory acquisition — Property of A being acquired for being given to B — Both A and B industrialists — Excess of land with A not proved — Acquisition violative of Articles 19 and 14 of Constitution — See Constitution of India, Article 14 (Aug) 305

— **Arts. 194 (3), 19, 13, 20 and 21** — Powers, privileges and immunity of Legislature, law relating to — Such law will be subject to Arts. 13 and 21 but not Art. 19 — Only a final order imposing a disability on the subject is justiciable (Jan) 10A (FB)

— **Art. 194 (3)** — Powers, privileges and immunities of Legislature — Absence of any law made by such legislature does not result in such privileges having lapsed by reason of inaction of Legislature (Jan) 10B (FB)

— **Art. 194 (3)** — Powers, privileges and immunities of legislature — Form of law — The corpus is the law of Constitution itself (Jan) 10C (FB)

— **Art. 226** — Quo warranto — Elections to Executive Committee of Society — Party acquiescing in elections cannot be allowed to challenge validity of election even if relief is sought by means of a writ of quo warranto — See Specific Relief Act (1963), S. 34 (Feb) 42B

— **Art. 226** — Dispute about wakf character of properties — Resort to remedy under Section 6 of the Wakf Act — Not resorting

Constitution of India (contd.)

to remedy precludes party from agitating the question in writ proceedings — See Muslim Wakf Act (29 of 1954), Section 6 (Mar) 66A

—Art. 226 — Judicial review of administrative order — See Land Acquisition Act (1894), S. 17 (Apr) 104B

—Art. 226 — Writ to quash order under Section 33 (2) (b) Industrial Disputes Act by Labour Court refused — Appeal against refusal — Scope of appeal — Subsequent events are not relevant to scope of appeal (Apr) 121A

—Art. 226 — Natural justice — Ex parte appointment of Commissioner — See Civil Procedure Code (5 of 1908), Order 39, R. 6 (Jun) 204A

—Arts. 226, 311 — Certiorari — Administrative Orders — When open to interference — Departmental enquiry against a Sub-Inspector of Police resulting in termination of his probation — Proceedings of authorities not vitiated by any error of procedure — Order terminating probation, not interfered with — (1963) 2 Lab LJ 60 (Mad) held impliedly overruled by AIR 1963 SC 779 (Jul) 275C

—Art. 226 — Petition against decision of Labour Court regarding bonus — Important principle in consideration of Labour-management relations involved — Objection as to interference on ground that amounts involved are of no great value — No ground for dismissing petition (Oct) 374E

—Art. 226 — Mandamus — Writ of — Powers of High Court — See Industrial Disputes Act (1947), Section 10 (Dec) 477B

—Art. 245 — Delegation of powers — When power is capable of being delegated the delegatee can exercise it — See Motor Vehicles Act (1939), S. 48 (3) (iii) and (iv) (Sep) 356A

—Art. 311 — Departmental enquiry against Sub-Inspector of Police resulting in termination of his probation — Error of procedure — Proceedings not vitiated — Order terminating probation not interfered with — (1963) 2 Lab LJ 60 (Mad) held impliedly overruled by AIR 1963 SC 779 — See Constitution of India, Article 226 (Jul) 275C

—Art. 366 (12), Sch. VII, List II Entries 54, 51, 52, 56 and List I Entries 92A, 30, 84, 89 — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — Definition of 'Goods' appearing in Article 366 (12) is inclusive — Not limited to concrete goods only — Section 2 (i) and (n) of Madras Act (1 of 1959) is constitutional (Jul) 284B

—Sch. 7, List I, Entry 30 — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India, Article 366 (12) (Jul) 284B

Constitution of India (contd.)

—Sch. 7, List I, Entry 84 — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India, Article 366 (12) (Jul) 284B

—Sch. 7, List I, Entry 89 — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India, Article 366 (12) (Jul) 284B

—Sch. 7, List I, Entry 92A — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India, Article 366 (12) (Jul) 284B

—Sch. VII, List II, Entry 51 — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India, Article 366 (12) (Jul) 284B

—Sch. VII, List II, Entry 52 — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India, Article 366 (12) (Jul) 284B

—Sch. VII, List II, Entry 54 — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India, Article 366 (12) (Jul) 284B

—Sch. 7, List 2, Entry 56 — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India, Article 366 (12) (Jul) 284B

Contempt of Courts Act (32 of 1952), S. 1 — Order by High Court to Officer — He cannot judge correctness of order himself (Jun) 232

—S. 3 — Interference with due course of justice in pending proceedings — Case in question referred to in public speech made by P — P explicitly declaring that that case was sub judice and he would refrain from any discussion about it — In view of cautionary trends of speech, jurisdiction relating to contempt of Court held could not be invoked (Oct) 378B

Contract Act (9 of 1872), S. 2 (d) — Doctrine of want of mutuality — Test — See Specific Relief Act (1877), Section 21 (Dec) 470

—S. 10 — Unregistered document — Sale deed or deed of conveyance — Admissibility. AIR 1934 Mad 418 and AIR 1937 Mad 22, held overruled by AIR 1943 Mad 761 (FB); AIR 1929 PC 362, held no longer good law — See Specific Relief Act (1877), Section 21 (Nov) 418

—S. 10 — Doctrine of want of mutuality — Test — See Specific Relief Act (1877), S. 21 (Dec) 470

—S. 10 — Fair rent not fixed — Agreement for enhancing rent is valid — See Houses and Rents — Madras Buildings (Lease and Rent Control) Act (18 of 1960), S. 7 (Dec) 473B

Contract Act (contd.)

—S. 11 — Doctrine of want of mutuality — Test — See Specific Relief Act (1877), S. 21 (Dec) 470

—S. 23 — Principle behind section — Public policy — Test — Dropping of prosecution must be at least part of consideration for pronote (Jan) 15A

—S. 70 — Adjudication of rights of parties in relation to quasi-tenancies — Principle of equity is applicable — See T. P. Act (1882) S. 105 (Nov) 437B

—S. 74 — Deposit — Forfeiture of — Breach of contract through purchaser's fault — Not sufficient — Vendor must prove that deposit was security for fulfilment of contract (Aug) 317A

—S. 171 — Fiduciary relationship between legal representative of deceased partner and surviving partners — See Partnership Act (1932), S. 46 (Jul) 257D

—S. 182 — Purchase of immovable property by promoter for company — Benefit of purchase passes to company on its incorporation — See Trusts Act (1882), Section 94 (Dec) 462B

—Ss. 201, 206 — Termination of agency — Termination working unjust hardship on agent — Reasonable notice is necessary (Nov) 423

—S. 206 — Termination of agency — Reasonable notice is necessary — See Contract Act (9 of 1872), Section 201 (Nov) 423

Criminal Courts and Court Martial (Adjustment of Jurisdiction) Rules (1952), R. 4 — Court unaware that accused was military sepoy — Procedure under Rule 4 not followed — Accused convicted under Civil law — Conviction need not be quashed — See Criminal P. C. (1898), Section 549 (1) (Sep) 321

Criminal Procedure Code (5 of 1898), S. 32 Second Schedule — Trade mark and property mark — Distinction — Complaint only of infringement of property mark — Sub-Magistrate held could try that offence — See Penal Code (1860), Section 482 (Mar) 94

—S. 103 — Searches in the course of administrative duties — Procedure to be followed — See Railway Protection Force Act (1957), S. 13 (Jun) 201A

—S. 145 (1) — Provision about making order in writing and stating grounds — It is mandatory — Preliminary order passed months after report on which it is based cannot be supported: (1912) 23 Mad LJ 499 held no longer good law (Nov) 411

—S. 173 (3) — Order of Commissioner of Police in Madras under Section 173 referring complaint as mistake of fact — Will not bar same complaint being filed before a Magistrate having jurisdiction, nor its entertainment by such Magistrate amount to abuse of process — See Criminal P. C. (1898), S. 190 (1) (a) (May) 177

—Ss. 190 (1) (a), 173 — Order of Commissioner of Police in Madras under Sec-

Criminal P. C. (contd.)

tion 173 referring complaint as mistake of fact — Subsequent entertainment of same complaint by Magistrate under S. 190 (1) (a), not barred, nor abuse of process (May) 177

—Ss. 226, 227 — Charge framed by Committal Court — Sessions Judge cannot altogether omit a charge which has been framed by the committing Court and on which trial has taken place — He can however, alter charge to an allied charge or to an inferior charge even before commencement of trial, if records warrant such alteration — Such alteration does not amount to omission: 1964-2 Cri LJ 87 (Guj), Dissent, from (Aug) 320

—S. 227 — Sessions Court cannot altogether omit charge framed in committed Court — It can alter it — See Criminal Procedure Code (5 of 1898), Section 226 (Aug) 320

—S. 439 — Army sepoy convicted under Prohibition Act without court knowing that he was subject to Army Act — Serving his sentence in full — No necessity to quash conviction and send accused for trial by Court Martial — See Criminal P. C. (1898), S. 549 (1) (Sep) 321

—S. 488 (3) Second Proviso — Scope — It governs whole of Section 488 — Proviso applies to all parties irrespective of their personal law: AIR 1956 Bhopal 71, Dissent, From (Nov) 414

—Ss. 549 (1), 439 — Accused a serving sepoy subject to provisions of Army Act, tried and convicted under Section 4A of Madras Prohibition Act — Held in absence of any material for Magistrate to know that accused was a sepoy it could not be said that procedure followed by him was wrong — Moreover, as accused had already served full term of imprisonment it would be unfair to quash proceedings and allow accused to be tried by Court-Martial (Sep) 321

—S. 561-A — Penal Code (1860), Section 441 — Striking workmen remaining in factory premises after working hours — Act of striking workmen amounts to criminal trespass under Section 441 — High Court can direct executive to take appropriate action (Feb) 33

Customs Act (52 of 1962), S. 111 (d) — Confiscation of gold seized is valid under the sections — See Customs Act (1962), S. 135 (ii) (Jun) 233A

—S. 123 (1) — Gold bearing foreign marks seized from a person — His failure to discharge burden under S. 123 (1) makes him liable for conviction under Section 135 (b) (ii) — See Customs Act (1962), S. 135 (ii) (June) 233A

—Ss. 135 (b) (ii), 111 (d) and 123 (1) — Admission by accused of seizure of gold bearing foreign marks from him — His failure to discharge burden under Section 123 (1) — He is liable for conviction under Sec-

Customs Act (contd.)

tion 135 (b) (ii) — Confiscation of gold under Section 111 (d) is valid (Jun) 233A

Defence of India Rules (1962), Chap. VI, Part XIII-A, Rr. 126-I (10), 126-P (2) (ii), (iv), and 126-H (2) (d) — Possession of contraband gold by accused as carrier — Though he acquires no interest in it, his possession contravenes R. 126-I (10) — He can be convicted under R. 126-P (2) (ii) and not under R. 126-P (2) (iv) and (vi) read with 126-H (2) (d) (Jun) 233B

—R. 126-H (2) (d) — Possession of contraband gold by accused as carrier — Conviction — See Defence of India Rules (1962), Chap. IV, Part XIII-A, R. 126 (10) (Jun) 233B

—R. 126-P (2) (ii) (d) (iv) — Possession of contraband gold by accused as carrier — Possession contravenes R. 126-I (10) — Conviction — See Defence of India Rules (1962), Chap. IV, Part XIII-A, R. 126-I (10) (Jun) 233B

—R. 126-P (2) (vi) — Possession of contraband gold contravenes R. 126-I (10) — Accused can be convicted under Rule 126-P (2) (iv) — See Defence of India Rules (1962), Chap. IV, Part XIII-A R. 126-I (10) (Jun) 233B

Divorce Act (4 of 1869), S. 5 — Relief of judicial separation on ground of wife's adultery and consequent birth of illegitimate child — Evidence of husband as to non-access — Corroboration — Necessity of — Duty of Court — See Evidence Act (1 of 1872), S. 112 (Jun) 235I

—S. 7 — Matrimonial cases — Standard of proof required — See Hindu Marriage Act (1955), S. 10 (Jun) 235B

—S. 7 — In matrimonial cases Judge should apply same standard of proof in arriving at all his findings — See Hindu Marriage Act (1955), S. 10 (Jun) 235C

—S. 10 — Standard of proof in matrimonial cases — See Hindu Marriage Act (1955), S. 10 (Jun) 235B

—S. 10 — Divorce and judicial separation on ground of wife's adultery — Proof of adultery — See Hindu Marriage Act (1955), S. 13 (Jun) 235E

—S. 10 — Relief of divorce asked for in plaint — At appellate stage petitioner can ask for lesser relief of judicial separation — See Hindu Marriage Act (1955), S. 10 (Jun) 235G

—S. 22 — Standard of proof in matrimonial cases — See Hindu Marriage Act (1955), S. 10 (Jun) 235B

—S. 22 — Proof of non-access — Spouses are competent to give evidence — See Evidence Act (1872), S. 112 (Jun) 235H

—S. 22 — Judicial separation asked for on ground of wife's adultery and consequent birth of an illegitimate child — Husband's evidence as to non-access — Necessity of corroboration — Duty of Court — See Evidence Act (1 of 1872), S. 112 (Jun) 235I

Divorce Act (contd.)

—S. 23 — Divorce and judicial separation on ground of wife's adultery — Proof of adultery — See Hindu Marriage Act (1955), Section 13 (Jun) 235E

—S. 23 — Proof of adultery on part of wife — See Hindu Marriage Act (1955), Section 10 (1) (f) (Jun) 235F

—S. 23 — Relief of divorce asked for originally — At appellate stage the petitioner can ask for lesser relief of judicial separation — See Hindu Marriage Act (1955), Section 10 (Jun) 235G

—S. 52 — Access — Spouses are competent to give evidence as to non-access — See Evidence Act (1872), Section 112 (Jun) 235H

Electricity Act (9 of 1910), S. 39 — Complaint by Chief Engineer — He is "person aggrieved" — Complaint, proper — See Electricity Act (1910), S. 50 (Jul) 280

—Ss. 50, 39 — Expressions "Person aggrieved" and "at the instance of" in S. 50 — Meaning — Complaint under S. 39 by Chief Engineer of Electric Supply Corporation held proper (Jul) 280

Employees' State Insurance Act (34 of 1948), S. 2 (12) — Factory — In case of a tannery, mere use of power for pumping water cannot be described as use of power in manufacturing process so as to attract definition of 'factory' — AIR 1961 Mad 7, Overruled — Question whether manufacturing process is carried on with aid of power is one of inference from facts — Held, tanneries in question did not come within definition of factory (May) 155A

—S. 2 (12) — Word "Premises" — Meaning of — Includes precincts — Separation of place where 20 persons are employed from location of power plant by boundary walls — Establishment is, nevertheless, "factory" (May) 155B

Evidence Act (1 of 1872), S. 3 — Discrepancies and contradictions — One witness stating that motor cycle which knocked the deceased was black in colour — Another witness stating that it was of chocolate colour — Similarly, one stating that there was heavy traffic on road — Another stating that there was no heavy traffic — Contradiction because one spoke relating to time of accident while the other spoke of time immediately after accident when there is naturally crowd gathered — Evidence held could not be ignored as contradictory (May) 180B

—S. 3 — Appreciation of evidence in matrimonial case — See Hindu Marriage Act (1955), Section 10 (Jun) 235C

—Ss. 17 and 18 — Entries in partnership books are prima facie evidence against each of partners (Jul) 257B

—S. 18 — Entries in partnership books are prima facie evidence against each of partners — See Evidence Act (1872), S. 17 (Jul) 257B

Evidence Act (contd.)

—Ss. 18, 21 — Admission made by father or manager of joint family — How far binds other members (Sep) 329C

—S. 21 — Admission by father or manager of joint family — How far binding on others — See Evidence Act (1872), S. 18 (Sep) 329C

—S. 35 — Entry in birth register — Column requiring officer to record name of father of new born child — Father's name entered as A son of B — Held, entry was not admissible with reference to parentage of A (Sep) 329B

—Ss. 101-104 — Possession of co-owner when adverse to other co-owners — Burden of proof — See Limitation Act (1908), Article 144 (Mar) 96D

—Ss. 101-104 — Matrimonial proceedings — Burden of proof — Duty of Court — See Hindu Marriage Act (1955), Section 10 (Jun) 235B

—Ss. 101 to 104 — Benami Transaction — Determination — Motive, source of consideration, possession of property and its enjoyment, custody of title deeds are the features whose effect either severally or cumulatively has to be considered — Onus lies on the person who pleads benami nature (Jul) 252A

—Ss. 101-104 — Adoption — Burden of proof (Sep) 329A

—S. 112 — Adultery of wife — No kind of access between couple since the wife began to live with parent — Child born to wife 402 days after severance of ties and separation — Inference is that the child was born of adulterous intercourse of wife — See Hindu Marriage Act (1955), S. 10 (1) (f) (Jun) 235F

—Ss. 112, 120 — 'Access' — Meaning of — Proof of non-access — Spouses are competent to give evidence (Jun) 235H

—S. 112 — Hindu Marriage Act (1955), S. 10 (1) (f) — Petition for judicial separation on ground of wife's adultery and consequent birth of illegitimate child — Evidence of non-access by husband — Necessity of corroboration — Duty of Court (Jun) 235I

—S. 114 — Defective service of notice to J. D. — J. D. cannot be presumed to have information about defective proclamation of sale — See Civil P. C. (1908), O. 21, R. 66 (as amended in Madras) (Jan) 5D

—S. 115 — Civil P. C. (1908), O. 21, R. 66 (as amended in Madras) and 69 — Waiver of irregularities in sale proclamation — Judgment-debtor having no knowledge of irregularity in sale proclamation applying for adjournment of sale — Only deliberate intention on his part to waive his right to object to irregularity in proclamation could constitute waiver, as estoppel must be certain to every intent and not to be taken by argument or inference (Jan) 5F

—S. 120 — Access — Proof of non-access — Spouses are competent to give evidence

Evidence Act (contd.)

— See Evidence Act (1872), S. 112 (Jun) 235E

—Ss. 123, 162 — Objection as to production of document — Scope of enquiry by Court — Transcript of speeches at public meetings — Fact that record was made by police officer — Documents not rendered privileged under Ss. 123, 162 (Oct) 378A

—S. 162 — Production of documents — Objection — Transcript of public speeches — Fact that record was made by Police Officer, does not render it privileged — See Evidence Act (1872), Section 123 (Oct) 378A

Factories Act (63 of 1948), S. 2 (k) (ii) — Tannery merely using power for pumping water — Cannot be described as using power for manufacturing process so as to attract definition of 'factory' — See Employee's State Insurance Act (1948), S. 2 (12) (May) 155A

General Clauses Act (10 of 1897), S. 3 (26) — Moveable property imbedded in earth — Does not become immovable property — See Transfer of Property Act (1882), S. 3 (Sep) 346

—S. 3 (36) — Copyright is incorporeal moveable property (Jul) 284A

—S. 6 (b) — Words "anything done" may include legal effects and consequences done prior to repeal — Publication of final rules under Madras General Sales Tax Act (1939), not legal consequence following publication of draft rules — See Sales Tax — Madras General Sales Tax Act (9 of 1939), S. 19 (4) (Sep) 322B

Gift Tax Act (18 of 1958), S. 2 (vii) — New shares on issue of fresh capital — Renunciation by shareholder in favour of nominee — Renunciation attracts gift tax — (Aug) 302

Guardians and Wards Act (8 of 1890), S. 17 — Consideration for welfare of minor — Father leaving mother and living with mistress is unfit to have custody — See Guardians and Wards Act (1890), S. 19 (b) (Sep) 365A

—Ss. 17, 25 — Order as to minor's custody — Nature of, is temporary — Interested person can apply for change of custody at any time (Sep) 365B

—Ss. 19 (b), 25 and 17 — Application under S. 25 by father — He is entitled to guardianship if found fit under S. 19 (b) — Consideration of welfare of minor comes into play only when father is found unfit. AIR 1955 Mad 451, AIR 1922 Bom 405 and AIR 1941 Bom 103, Dissented from — Person discarding wife and living with mistress, not fit for custody of his child of tender years (Sep) 365A

—S. 25 — Person discarding wife and taking in mistress — Unfit to have custody of child of tender age — See Guardians and Wards Act (1890), S. 19 (b) (Sep) 365A

—S. 25 — Order of custody has temporary character — Person interested can apply for change of custody — See Guardians and Wards Act (1890), S. 17 (Sep) 365B

Hindu Adoptions and Maintenance Act (78 of 1956), Preamble — Scheme of the Act and its relation to Hindu Succession Act — See Hindu Succession Act (1956), Preamble

(Mar) 72A
—Ss. 4, 5, 7, 8, 11, 12, 14 — Effect of adoption — Adoption by widow — Adopted boy does not become adopted son of deceased husband conferring upon him rights of inheritance to estate of deceased husband. AIR 1966 Bom 174 & AIR 1967 All 148, Dissent from (Mar) 72E

—S. 5 — Effect of adoption — See Hindu Adoptions and Maintenance Act (1956), S. 4 (Mar) 72E

—S. 7 — Effect of adoption — See Hindu Adoptions and Maintenance Act (1956), S. 4 (Mar) 72E

—S. 8 — Widow has no capacity to make an adoption to the deceased husband — See Hindu Adoptions and Maintenance Act (1956), S. 4 (Mar) 72E

—S. 11 — Effect of adoption — See Hindu Adoptions and Maintenance Act (1956), S. 4 (Mar) 72E

—S. 12 — Effect of adoption — See Hindu Adoptions and Maintenance Act (1956), S. 4 (Mar) 72E

—S. 14 — Effect of adoption — See Hindu Adoptions and Maintenance Act (1956), S. 4 (Mar) 72E

—S. 19 — Maintenance deed creating life interest in Favour of widowed daughter-in-law — Death of father-in-law — Suit for partition and possession of her share by widowed daughter-in-law — Maintainability — See Hindu Succession Act (1956), S. 6 (May) 187A

Hindu Law — Adoption — Burden of proof — See Evidence Act (1872), Ss. 101-104 (Sep) 329A

—Adoption — Capacity to give and take (Mar) 72C

—Adoption — Widow's right to adopt (Mar) 72B

—Alienation — Purchaser of coparcener's share — Right of (Nov) 416B

—Father — Avyavaharika debt — Liability of son to repay his father's debt — Son not liable for Avyavaharika debt — Meaning of Avyavaharika debt — Liability to be examined as on date when incurred — Origin of debt legal — Subsequent dishonesty does not absolve the son (Jan) 15B

—Gifts — See Hindu Succession Act (1956), S. 6 (May) 187A

—Joint family acquisition in name of male member and female member — Distinction as to scope of presumption (Sep) 329E

—Joint family — Admission made by father or manager — How far binding on others — See Evidence Act (1872), S. 18 (Sep) 329C

—Joint family — Power of father over his son's share in family property — Power does

Hindu Law (contd.)

not create proprietary interest — See Provincial Insolvency Act (1920), S. 28A

(Oct) 382
—Joint family — Presumption that if family has sufficient nucleus every acquisition made by member would be presumed to be joint family property having been acquired with aid of joint family property does not apply to a case where under arrangement for convenient enjoyment, part of property is allotted to member and from income of such property acquisition is made by him (Sep) 329F

—Marriage — Marriage of man with impotent woman is invalid — Such marriage is not nullity unless a declaration is secured from Court — Death of husband — No declaration from Court that marriage was nullity — Woman gets status of widow of deceased — Third person cannot question her status (Apr) 124

—Partition — Widowed daughter-in-law — Suit for — Maintainability — See Hindu Succession Act (1956), S. 6 (May) 187A

Hindu Marriage Act (25 of 1955), Ss. 10, 13 and 23 — Standard of proof required for relief under — Standard of proof beyond reasonable doubt — Standard of proof drawn from criminal cases is not safe — Falsity of party's case does not mean that the case of opposite party is true (Jun) 235B

—Ss. 10, 13 — In matrimonial cases Judge should apply some standard of proof (Jun) 235C

—Ss. 10, 13 — Originally relief of divorce asked for — At appellate stage petitioner can ask for lesser relief of judicial separation (Jun) 235C

—Ss. 10 (1) (f), 13 (1A) (i), 23 — Husband's application for judicial separation — Relief delayed for ten years due to lower Courts' holding erroneous views — If award of relief of judicial separation had not been so long delayed, husband would have been entitled to relief of divorce under S. 13 (1A) (i) read with S. 23, there having been no reunion between parties for past over ten years, between parties — Court whether can pass decree for judicial separation dating back to the date of the petition and a decree for divorce under Section 13 (1A) (i), considering the maxim *actus curiae neminem gravabit*, and act of the Court shall prejudice no man, and the precedents in which by the application of this salutary principle of justice underlying this maxim judgments have been entered retrospectively to meet the justice of the case, the decision taking effect for a period long anterior to the date of the judgment. (Quaere) (Jun) 235D

—S. 10 (1) (f) — Divorce and judicial separation on ground of wife's adultery — Proof of adultery — See Hindu Marriage Act (1955), S. 13 (Jun) 235E

—S. 10 (1) (f) — Proof of adultery on part of wife — Wife severing connection with husband once for all on 17-11-1957 and

Hindu Marriage Act (contd.)

living with parents — No kind of access between couple since then — Child born to wife on 23-12-1958, 402 days after final severance of ties and separation — It is a proof that the child was born only as a result of wife's sexual intercourse with some one, other, than the husband — There need not be any other evidence to prove this — It is not so much the unchastity of the wife that is the subject-matter of these proceedings, but it is the factum of the birth of a child beyond the period of twelve months after the cessation of marital consortium between the spouses (Jun) 235F

—S. 10 (1) (f) — Spouses are competent to give evidence of non-access — See Evidence Act (1872), S. 112 (Jun) 235H

—S. 10 (1) (f) — Relief of Judicial separation on ground of wife's adultery and consequent birth of illegitimate child — Evidence of non-access of husband — Necessity of corroboration — Duty of Court — See Evidence Act (1 of 1872), S. 112 (Jun) 235I

—S. 12 — Ex parte decree of nullity in favour of wife — Husband applying for setting aside ex parte decree — Wife contracting remarriage during pendency of application — Order, setting aside ex parte decree would not become infructuous. AIR 1965 Madh Pra 194, Dissent from (Nov) 405

—S. 12 (1) (d) and S. 12 (2) (b) (ii) — Petition under S. 12 (1) (d) filed beyond period mentioned in S. 12 (2) (b) (ii) — Petition is not maintainable — What is laid down in Section 12 (2) (b) (ii) is condition subject to which alone petition can be entertained — It is not period of limitation — Section 5 of Limitation Act has no application (Dec) 479

—S. 13 — Standard of proof required for relief under — See Hindu Marriage Act (1955), S. 10 (Jun) 235B

—S. 13 — In matrimonial cases Judge should apply some standard of proof in arriving at all his findings — See Hindu Marriage Act (1955), S. 10 (Jun) 235C

—Ss. 13, 10 (1) (f) — Relief of divorce and relief of judicial separation on ground of wife's adultery — Proof of isolated act of adultery is sufficient for the latter relief, while for relief of divorce, course of immoral conduct must be more or less continuous (Jun) 235E

—S. 13 — Lesser relief of judicial separation can be asked for at appellate stage — Originally divorce was asked for — See Hindu Marriage Act (1955), S. 10 (Jun) 235G

—S. 13 (1A) (i) — Relief of divorce and relief of judicial separation on ground of wife's adultery — Proof — Evidence — See Hindu Marriage Act (1955), S. 10 (1) (i) (Jun) 235D

—S. 23 — Standard of proof required for relief under — See Hindu Marriage Act (1955), S. 10 (Jun) 235B

Hindu Marriage Act (contd.)

—S. 23 — Relief of divorce and relief of judicial separation — Proof — Evidence — See Hindu Marriage Act (1955), S. 10 (1) (i) (Jun) 235D

—S. 23 — Matrimonial causes — Duty of Court — See Civil Procedure Code (5 of 1908), O. 20, R. 4 (Jun) 235J

—S. 28 — Section does not contain any prohibition or restriction as to further appeal like Section 39 (2), Arbitration Act — See Letters Patent (Mad), Clause 16 (June) 235A

Hindu Succession Act (30 of 1956), Preamble — Hindu Adoptions and Maintenance Act (1956), Preamble — Schemes of Acts and their relation with each other (Mar) 72A

—Pre. — Interpretation of the provisions (May) 187B

—Ss. 6 and 8 — Maintenance deed creating life interest in favour of widowed daughter-in-law — Death of father-in-law — Suit by daughter-in-law for partition and possession of share — Father-in-law's interest will devolve by way of succession and not by way of survivorship — Items given under maintenance deed need not be included in suit property (May) 187A

—S. 8 — Maintenance deed creating life interest in favour of widowed daughter-in-law by father-in-law — Death of father-in-law — Suit by daughter-in-law for partition and possession of her share in the property — Property would devolve by way of succession and not by way of survivorship — See Hindu Succession Act (1956), S. 6 (May) 187A

Hindu Women's Right to Property Act (18 of 1937), S. 3 — Widowed daughter-in-law — Maintenance deed creating life interest in certain properties passed by father-in-law — Death of father-in-law — Succession — See Hindu Succession Act (1956), S. 6 (May) 187A

HOUSES AND RENTS

—Madras Buildings (Lease and Rent Control) Act (18 of 1960), S. 5 — Fair rent not fixed — Agreement for enhancing rent is valid — Scope of Section, explained — See Houses and Rents — Madras Buildings (Lease and Rent Control) Act (18 of 1960), S. 7 (Dec) 473B

—S. 6 — Fair rent not fixed — Agreement for enhancing rent is valid — Scope of Section, explained — See Houses and Rents — Madras Buildings (Lease and Rent Control) Act (18 of 1960), S. 7 (Dec) 473B

—Ss. 7, 5, 6 — Variation of rent — Validity — Fair rent not fixed — Agreement for enhancing rent is valid — Section 7 (2) does not invalidate such agreement — Scope of Sections 5, 6 and 7 explained — "Agreed rent" — Meaning explained (Dec) 473B

—S. 7 (2) — Words "Premium or other like sums" — They are sums paid in excess

Houses and Rents — Madras Buildings (Lease and Rent Control) Act (contd.)

of agreed rent in consideration of grant, continuance or renewal of tenancy — The Act does not define rent but makes clear distinction between rent and premium or other like sums (Dec) 473C

—S. 10 (3) (a) (iii) — Claim for eviction — Bona fide requirement of landlord of non-residential premises for his partnership business — Claim for eviction is covered by sub-section — Claim by landlord need not be for his exclusive business (Jun) 214

Income-tax Act (11 of 1922), S. 10 (2) (xv)

— Wealth Tax paid on assessee's share stock — Not admissible deduction — See Income-tax Act (1961), S. 57 (iii) (Mar) 69

—S. 52 — Section does not repeal Section 177 of Penal Code (May) 145A

—S. 52 — Prosecution instituted under the section — Included in 'proceedings for assessment of that person for that year' within Section 297 (2) (a) of Income-tax Act, 1961 — See Income-tax Act (1961), Section 297 (2) (a) (May) 145B

—S. 52 — Prosecution under Section 52 after valid sanction by Inspecting Assistant Commissioner — Commencement of Act of 1961 during pendency of prosecution — No objection on ground that under Section 279 of new Act the Commissioner alone can institute prosecution, can be raised — See Income-tax Act (1961), Section 277 (May) 145C

—S. 53 — Prosecution under Section 52 after valid sanction by Inspecting Assistant Commissioner — Commencement of Act of 1961 during pendency of prosecution — No objection on ground that under Section 279 of new Act the Commissioner alone can institute prosecution, can be raised — See Income Tax Act (1961), Section 277 (May) 145C

—S. 64 — Tribunal having jurisdiction over more than one State — Reference to High Court — Principles underlying Section 64 must be followed — See Income-tax Act (1922), Section 66 (1) (2) (Aug) 300

—Ss. 66 (1), (2) and 64 and Appellate Tribunal Rules, Rule 4 — Tribunal — Jurisdiction over more States than one — Reference to which High Court — Principles under Section 64 to be followed (Aug) 300
Income-tax Act (43 of 1961), S. 57 (iii) — Income-tax Act (1922), S. 10 (2) (xv) — Scope and applicability — Wealth-tax paid on assessee's share stock holding is not an admissible deduction under Section 57 (iii) (Mar) 69

—S. 179 and Second Sch., Part I, R. 2 — Failure on part of Recovery Officer to issue notice to defaulter — Defaulter clearly aware of recovery proceedings and in fact participating in them — Held, principle of cases under Order 21, Rule 22, Civil P. C. 1969 (Mad) Indexes 2

Income-tax Act (1961) (contd.)

(1908), that judgment-debtor appearing in proceedings cannot later raise objection that they are bad for want of notice, should apply to recovery proceedings under Part I and in particular to Rule 2 (Apr) 143

—Ss. 220, 246 — Discretion to treat assessee as not being in default — Discretion is coupled with duty to exercise it in proper cases — Discretion is to be exercised in accordance with law and reason, neither arbitrarily nor capriciously — He should not take into account any irrelevant or extraneous matters not germane to the occasion and the exercise of his discretion (Jun) 208A

—S. 220 (3) and (6) — Scope — Stay on condition that assessee should pay disputed amount by instalments either in whole or in part and furnish security for the balance — Sub-section (6) is wide enough to cover such a stay on such condition (Jun) 208B

—S. 246 — Discretion to treat assessee as not being in default — Exercise of — See Income-tax Act (1961), Section 220 (Jun) 208A

—Ss. 277 and 279 — Income-tax Act (1922), Sections 52 and 53 — Prosecution under Section 52 after valid sanction by Inspecting Assistant Commissioner — Commencement of Act of 1961 during pendency of prosecution — No objection on ground that under Section 279 of new Act the Commissioner alone can institute prosecution, can be raised — If prosecution is launched under the old Act which was in force at the time of repeal, the entire procedure provided under the old Act alone should be followed (May) 145C

—S. 279 — Prosecution under Section 52 after valid sanction by Inspecting Assistant Commissioner — Commencement of Act of 1961 during pendency of prosecution — No objection on ground that under Section 279 of new Act the Commissioner alone can institute prosecution, can be raised — See Income-tax Act (1961), Section 277 (May) 145C

—S. 297 (2) (a) — "Proceedings for the assessment of that person for that year" — Meaning of — Includes prosecution instituted under Section 52 of Income-tax Act (1922) (May) 145B

—S. 297 (2) (b) — Provision is not violative of Article 14 of Constitution — Classification of persons who filed returns before commencement of Act as one class and persons who filed returns after commencement of Act as another, is justifiable (May) 145D

—Sch. II, Part 1 Rule 2 — Recovery proceedings — Applicability of principles under Order 21, Rule 22, C. P. C. — See Income-tax Act (1961), Section 179 (Apr) 143

Income-tax Appellate Tribunal Rules, R. 4 — Tribunal — Jurisdiction over more States than one — Reference to which High Court

Income Tax Appellate Tribunal Rules (contd.)

— Principles under Section 64 to be followed — See Incometax Act (1922), Section 66 (1), (2) (Aug) 300

Industrial Disputes Act (14 of 1947), S. 2 (j)

— "Industry" — Firm of Chartered Accountants — Not within scope of Section 2 (j). AIR 1963 Cal 310, Not foll. (Apr) 134

— Section 2 (k) — Dispute raised by Union — Mere fact that subsequently, the worker concerned requested reconsideration will not make the dispute any the less an industrial dispute (Jan) 21A

— S. 2 (k) — Workman concerned becoming member of Union long back after his dismissal — Dispute sponsored by Union — Government declining to make reference on ground of belatedness — Held, action of Government was not unreasonable or perverse — See Industrial Disputes Act (1947), Section 10 (Dec) 477C

— Ss. 10 and 12 (5) — Reference of disputes to Boards etc. — Matters which government may take into consideration (Dec) 477A

— Ss. 10 and 12 (5) — Constitution of India, Article 226 — Mandamus — Writ of — Powers of High Court — Court cannot direct a reference — No bar of limitation applies to reference — Union can always agitate for fresh reference on conditions of employment (Dec) 477B

— Ss. 10, 12 (5) and 2 (k) — Reference of disputes to Boards etc. — Workman concerned becoming member of Union long back after his dismissal — Dispute sponsored by Union — Government declining to make reference on the ground of belatedness — Held, the action of Government was not unreasonable or perverse (Dec) 477C

— Ss. 10 (1), 12 (5) — Order passed under Section 10 (1) read with Section 12 (5) — Power of Court to interfere is limited to cases where Govt. is guided by extraneous matters (Jan) 21B

— Ss. 10 (1), 12 (5) — Refusal to make reference in the first instance — Subsequent order of reference is competent (Jan) 21C

— S. 11 (3) — Powers of Civil Courts exercisable by Labour Court — See Civil Procedure Code (5 of 1908), Section 11 (Nov) 406

— S. 12 (5) — Reference of dispute once refused — Subsequent order of reference is competent — See Industrial Disputes Act (1947), Section 10 (1) (Jan) 21C

— S. 12 (5) — Reference of dispute to Boards etc. — Matters which Government may take into consideration — See Industrial Disputes Act (1947), Section 10 (Dec) 477A

— S. 12 (5) — No bar of limitation applies to reference — Union can always agitate for fresh reference on conditions of employment — See Industrial Disputes Act (1947), S. 10 (Dec) 477B

— S. 12 (5) — Workman concerned becoming member of Union long back after his dismissal — Dispute sponsored by Union

Industrial Disputes Act (contd.)

— Government declining to make reference on ground of belatedness — Held, action of Government was not unreasonable or perverse — See Industrial Disputes Act (1947), Section 10 (Dec) 477C

— S. 12 (5) — Order under — Power of Courts to interfere is limited to cases where Govt. is guided by extraneous matters — See Industrial Disputes Act (1947), Section 10 (1) (Jan) 21B

— S. 15 — Dismissal of worker for misconduct — Powers of Tribunal to decline permission under Section 53 (2) (b) — See Industrial Disputes Act (1947), Section 33 (2) (b) (Apr) 121B

— S. 18 (1) — Parties to settlement alone can take advantage of it — See Industrial Disputes Act (14 of 1947), Section 33-C (2) (Nov) 407

— S. 33 — Misconduct — Employee of a Cinema Theatre showing advertisement slide without permission of Management — It is a misconduct of grave character (Mar) 87B

— S. 33 (2) (b) Proviso — 'Unless he has been paid wages for one month' — Meaning of word 'paid' — It includes offer to pay and where management makes the offer and employee refuses to accept same, that would be adequate compliance with law — Offer has to be made simultaneously with the sanction seeking application or prior thereto: W. P. No. 815 of 1962 (Mad), Overruled (Mar) 87

— S. 33 (2) (b) — Writ to quash order under refused — Appeal against refusal — Scope of appeal — See Constitution of India, Article 226 (Apr) 121A

— Ss. 33 (2) (b) 15, Sch. II, Item 6 — Tribunal, powers of — Alleged misconduct by employee — Tribunal does not sit in appeal over judgment of management — Yet "baseless findings" and "basic errors" will enable Tribunal to decline permission under Section 33 (2) (b) (Apr) 121B

— S. 33 (2) (b), Sch. III, Item 8 — Misconduct, what constitutes explained — Charge of misconduct is a serious charge and must be supported by material evidence — Powers of High Court to interfere (Apr) 121C

— S. 33 (2) (b) — Misconduct — Request for permission of Tribunal to dismiss an employee — Grounds for dismissal very flimsy as to be open to plausible charge of victimisation — Management should take action only on very strong ground — Good relations between employer and employee are desirable. (Dictum) (Apr) 121D

— S. 33C (2) — Claim for bonus by workman — Absence of award or settlement about bonus — Labour Court has jurisdiction to consider claim (Oct) 374A

— S. 33-C (2) — Workman dismissed for misconduct involving loss to management — If can claim bonus — 1952-1 Lab LJ 524 (LATI at All) Dissented from (Oct) 374

Industrial Disputes Act (contd.)

—S. 33C (2) — Dismissal of workman for misconduct — Failure to challenge that order for more than three years — Proceedings under Section 33-C (2) initiated by worker thereafter — Labour Court cannot embark on an enquiry about propriety or terms of order of dismissal — It must treat that order as having become final and conclusive as between management and worker

(Oct) 374C

—S. 33-C (2) — Dismissal of workman for misconduct involving loss to management — Petition under Section 33-C (2) claiming bonus and repayment of security amount — Allegation as to practice that bonus had been paid even to workers dismissed for misconduct in prior years — Burden of proof as to such practice is on workman — Management cannot be asked to prove that there was no such practice — Normally worker is entitled to get refund of security amount and it is for management to prove satisfactorily that it had a lien on that amount for loss caused to it

(Oct) 374D

—S. 33-C (2) — Principle of res judicata applicable — Fresh application on same cause of action not maintainable — See Civil Procedure Code (5 of 1908), Section 11

(Nov) 406

—Ss. 33-C (2), 18 (1) — Section 33-C (2) read with Section 18 (1) gives right only to parties to settlement to take advantage of settlement and claim benefit capable of being computed in terms of money — Person who had already left the service long before the settlement under Section 18 (1) cannot take advantage of the settlement

(Nov) 407

—Sch. II, Item 6 — Dismissal of worker for misconduct — Powers of Tribunal to decline permission under Section 33 (2) (b) — See Industrial Disputes Act (1947), Section 33 (2) (b)

(Apr) 121B

—Sch. III, Item 8 — Misconduct — What constitutes — See Industrial Disputes Act (1947), Section 33 (2) (b)

(Apr) 121C

Land Acquisition Act (1 of 1894), Ss. 4 (1) and 6 — Notification under Section 4 (1) and declaration under Section 6 can be simultaneous — Directions given in the Madras Land Acquisition Manual recommended for being followed

(Apr) 104A

—Ss. 4 (1), 5A — Acquisition of land owned by temple for construction of staff quarters of University — Acquisition was for public purpose — Alteration of procedure for disposal of land by public auction into proceedings for acquisition of land — Religious institution held would not lose

(May) 183A

—S. 4 (1) — "Public purpose" — Meaning of — See Civil Procedure Code (5 of 1908), Pre.

(May) 183B

—S. 5A — Acquisition of land owned by temple for construction of staff quarters of University — Acquisition is for a public purpose — See Land Acquisition Act (1894), Section 4 (1)

(May) 183A

Land Acquisition Act (contd.)

—S. 6 — Notification under Section 4 (1) and declarations under Section 6 can be simultaneous — See Land Acquisition Act (1894), Section 4 (1)

(Apr) 104A

—S. 17 (4) — Opinion of State Government about emergency is challengeable only when the Government acts mala fide or does not apply its mind to the matter. AIR 1965 Mad 328 & W. P. No. 1555/64 & W. P. No. 795 of 1962 (Mad) & W. P. No. 505 of 1961 (Mad), Dissented and held impliedly overruled by AIR 1967 SC 1081

(Apr) 104B

—S. 40 (1) (b) — Words 'public purpose' in Section 4 (1) — Interpretation not to be narrowed down to restricted words used in Section 40 (1) (b) — See Civil Procedure Code (5 of 1908), Pre.

(May) 183B

Letters Patent (Cal), Cl. 15 — Decision rendered in Civil Revision — No appeal lies under Cl. 15 — Proceeding filed as Civil Misc. Appeal is immaterial — See Letters Patent (Mad), Cl. 15

(Oct) 389D

—(Madras), Cl. 15 — Civil P. C. (1908), Section 114 and Order 47, Rule 1 — Order refusing leave to file letters patent appeal cannot be reviewed. AIR 1963 Andh Pra 18, Dissented from

(Jun) 227B

—Cl. 15 — Scope — Decision rendered in civil revision petition — No appeal lies under this clause — That originally the proceedings were filed as civil miscellaneous second appeal is immaterial

(Oct) 389D

—Cl. 16 — Hindu Marriage Act (1955), Section 28 — Appeal against decision of City Civil Judge to High Court — Letters Patent Appeal against High Court decision is maintainable — High Court in Letters Patent Appeal can interfere with finding of fact of Single Judge but not lightly — It cannot however interfere in appeal where leave is granted. AIR 1964 Pat 76, Dissented from

(Jun) 235A

Limitation Act (9 of 1908), S. 10, Art. 120 — "Specific purpose" — Requirements of — Secretary of Labour Union collecting subscriptions from labourers and issuing printed receipts stated to be for building fund — Suit for rendition of accounts and recovery of amounts due — Held, suit was governed by Section 10 and not by Article 120 and there was no question of its being instituted out of time — Subsequent registration of the Union, effect of: S. A. No. 850 of 1961 (Mad), Reversed

(Nov) 401

—Art. 106 — Suit by legal representative of deceased partner for share in assets of partnership — Article 106, applies — See Partnership Act (1932), Section 46

(Jul) 257D

—Art. 120 — Subscriptions for building fund collected from labourers, by Secretary Labour Union and receipts issued — Suit against Secretary for rendition of accounts and amounts due — Suit is governed by Section 10 and not by Article. S. A. No. 850

Limitation Act (1908) (contd.)

of 1961 (Mad). Reversed — See Limitation Act (9 of 1908), Section 10 (Nov) 401

—Arts. 134, 148 — Suit for redemption — A and B mortgaging joint property to 'C' — D a creditor of B in execution of a decree against B putting the property for sale, purchasing it and paying off charge of C — D who purchased the entire property openly selling it to others who also, to the knowledge of 'A', openly enjoying the property in full rights — Suit by A for redemption of his share is governed by Article 134 and not by Article 148 (Jan) 27B

—Art. 144 — Possession of co-owner when adverse to other co-owner — Burden of proof (Mar) 96D

—Art. 148 — Suit for redemption — Applicability of Article — See Limitation Act (1908), Article 134 (Jan) 27B

Limitation Act (36 of 1963), S. 5 — Petition under Section 12 (1) (d), Hindu Marriage Act filed beyond period mentioned in Section 12 (2) (b) (ii) — Section 5, Limitation Act has no application — See Hindu Marriage Act (1955), Section 12 (1) (d) (Dec) 479

—Art. 5 — See Limitation Act (1908), Article 106 (Jul) 257D

—Art. 64 — Symbolical delivery of possession of undivided coparcenary interest to purchaser in execution sale — Does interrupt adverse possession against purchaser though symbolical delivery is not correct in law — See Civil P. C. (1908), Order 21, Rule 35 (2) (Mar) 81

—Art. 65 — Adverse possession — Interruption against purchaser in execution sale — See Civil P. C. (1908), Order 21, Rule 35 (2) (Mar) 81

Madras Buildings (Lease and Rent Control) Act (18 of 1960)

See under Houses and Rents.

Madras Cinema (Regulation) Act (9 of 1955), S. 10 — Rules under — Rule prescribing maximum of 5 nps. per cycle as fee from users of cycle-stand — Held, rules prescribing invariable maximum for fee without taking into account actual expenditure that licensee may have to incur would be entirely illegal and ultra vires (Jun) 211

Madras City Police Act (3 of 1888), S. 7 — Scope — See Criminal P. C. (1898), Section 190 (1) (a) (May) 177

Madras Civil Services (Classification, Control and Appeal) Rules (1953)

See under Civil Services.

Madras Cultivating Tenants (Payment of Fair Rent) Act (24 of 1956)

See under Tenancy Laws.

Madras Cultivating Tenants Protection Act (25 of 1955)

See under Tenancy Laws.

Madras Estates (Abolition and Conversion into Ryotwari) Act (26 of 1948)

See under Tenancy Laws.

Madras Estates Land (Reduction of Rent) Act (30 of 1947)

See under Tenancy Laws.

Madras General Clauses Act (1 of 1891), S. 8 (a) — Words "anything done" may include legal effects and consequences done prior to repeal — Publication of final rules under Madras General Sales Tax Act (1939), not legal consequence following publication of draft rules — See Sales Tax — Madras General Sales Tax Act (9 of 1939), Section 19 (4) (Sep) 322B

Madras General Sales Tax Act (9 of 1939)

See under Sales Tax.

Madras General Sales Tax Act (1 of 1959)

See under Sales Tax.

Madras General Sales Tax (Second Amendment) Act (10 of 1963)

See under Sales Tax.

Madras General Sales Tax (Third Amendment) Act (19 of 1967)

See under Sales Tax.

Madras General Sales Tax Rules, 1939

See under Sales Tax.

Madras General Sales Tax Rules (1959)

See under Sales Tax.

Madras Hindu Religious and Charitable Endowments Act (19 of 1951), Ss. 57, 62, 87, 93 — Orders under Section 57 (c) not binding on persons who were not parties to proceedings — Neither Section 93 or 87 bar a civil suit for declaration and injunction by third party who was not a party to proceedings (Apr) 108C

—S. 62 — Bar of Civil Suit — See Madras Hindu Religious and Charitable Endowments Act (19 of 1951), Section 57 (Apr) 108C

—S. 87 — Neither Section 93 nor Section 87 bar a Civil Suit for declaration and injunction by third party not party to proceedings — See Madras Hindu Religious and Charitable Endowments Act (19 of 1951), Section 57 (Apr) 108C

—S. 93 — Bar on maintainability of suits in Civil Courts is not absolute — Matters not contemplated by the Act can be dealt with in Civil Courts (Apr) 108A

—S. 93 — Civil Suit for declaration and injunction by third party not party to proceedings under the Act not barred — See Madras Hindu Religious and Charitable Endowments Act (19 of 1951), Section 57 (Apr) 108C

Madras Hindu Religious and Charitable Endowments Act (22 of 1959), S. 34 — Acquisition of land belonging to temple for public purpose — Alteration of procedure for disposal of land — Religious institution held would not lose thereby — See Land Acquisition Act (1894), Section 4 (1) (May) 183A

Madras Motor Vehicles Rules (1940), R. 134-A (xi) — Rule is ultra vires of Article 14 of the Constitution — See Motor Vehicles Act (1939), Section 68 (1)

(Jun) 223

—R. 134-A (xv) (xvii) (as amended in 1959) — Scope of — See Motor Vehicles Act (1939), Section 48 (3) (iii) and (iv)

(Sep) 356A

—R. 184 — Application for renewal of permit — Death of applicant pending application but after date of expiry of permit to be renewed — Heir can continue renewal proceeding and get permit transferred to him — See Motor Vehicles Act (4 of 1939), S. 58

(Feb) 55

—R. 185 — Death of applicant pending applications for renewal of his permit — Heir can continue the renewal proceedings and get permit transferred to him — See Motor Vehicles Act (4 of 1939), Section 58

(Feb) 55

—R. 269 (as amended in 1959) — Scope of — See Motor Vehicles Act (1939), Section 48 (3) (iii) and (iv)

(Sep) 356A

Madras State and Subordinate Service Rules
See under Civil Services.

Medicinal and Toilet Preparations Excise Duties Act (16 of 1955), S. 2 (a) — Preparations in which spirits or tinctures are added as preservatives contain alcohol and are liable to excise duty — See Medicinal and Toilet Preparations Excise Duties Act (1955), Sch., Item 1

(Nov) 448A

—Ss. 3 and 4 and Schedule — Excise duty on preparations containing tinctures or spirits — Validity — Held that there was no double taxation in respect of such preparations — Tax already paid on tinctures or spirits is paid by their manufacturers and not by petitioners — If petitioners used alcohol on which duty was paid by them, they could claim rebate under Section 4

(Nov) 448B

—S. 3 (2) — Preparations with spirit or tinctures added as preservative — They are liable to excise duty — See Medicinal and Toilet Preparations Excise Duties Act (1955), Sch., Item 1

(Nov) 448A

—S. 4 — If manufacturer uses alcohol on which duty was paid by him he can claim rebate under Section 4 — See Medicinal and Toilet Preparations Excise Duties Act (1955), Section 3

(Nov) 448B

—S. 6 (2) — See Medicinal and Toilet Preparations Excise Duties Act (1955), Sch., Item 1

(Nov) 448A

—Sch., Item 1 and Sections 2 (a), 6 (2) and 3 (2) — Term "containing alcohol" — Meaning of — Preparations in which spirits or tinctures were added as preservative, contained alcohol and were liable to excise duty

(Nov) 448A

—Schedule, Item 1 — Excise duty on preparations containing tinctures or spirits — See Medicinal and Toilet Preparations Excise Duties Act (1955), Section 3

(Nov) 448B

Medicinal and Toilet Preparations Excise Duties Act (contd.)

—Sch., Items 1 and 2 — Validity — Constitution of India, Article 14 — 'Potability' as basis for distinction between Items 1 and 2 is not capricious or absurd — Provisions are valid

(Nov) 448C

—Sch., Item 2 — Distinction between Items 1 and 2 of schedule not capricious — See Medicinal and Toilet Preparations Excise Duties Act (1955), Sch., Item 1

(Nov) 448C

Medicinal and Toilet Preparations Excise Duties Rules, 1956, Rr. 2 (XIX) and 60 (1)

— "Restricted preparation" — Meaning of

(Nov) 448E

—R. 9 — Failure of manufacturers to take licence and pay duty at appropriate time and place — Rule 12, and not Rule 9, applies — See Medicinal and Toilet Preparations Excise Duties Rules (1956), Rule 12

(Nov) 448D

—R. 11 — Failure of manufacturer to take licence and pay duty — Rule 11 does not apply — See Medicinal and Toilet Preparations Excise Duties Rules (1956), Rule 12

(Nov) 448D

—Rr. 12, 11 and 9 — Limitation — Manufacturer failing to take licence and failing to pay duty at appropriate time and place — It is Rule 12 that applies — Limitation of six months contained in Rule 9 does not apply

(Nov) 448D

—R. 60 (1) — "Restricted preparation" — Meaning of — See Medicinal and Toilet Preparations Excise Duties Rules (1956), Rule 2 (xix)

(Nov) 448E

Motor Vehicles Act (4 of 1939), S. 44 (5) — Delegation of power under Rule 134-A (xi) — Validity of Rule — See Motor Vehicles Act (1939), Section 68 (1)

(Jun) 223

—Ss. 47 (3), 47 (1), 48 and 57 — Scope and object — Provisions of Section 47 (3) are not arbitrary but contain sound rule of public policy — When existing operators call upon R. T. A. to fix number of buses on route before entertaining applications for permit, R. T. A. bound to do so — R. T. A. has no jurisdiction to consider applications without prior determination under Section 47 (3) — At the time of determination under Section 47 (3) existing operators should be given opportunity for representation. W. P. No. 1984/1967, Reversed

(Nov) 411

—Ss. 47 (3), 57 (3) — Proceedings under Section 57 (3) without prior determination of number of permits to be granted under Section 47 (3) — Failure of petitioner to make representations under Section 57 (3) within prescribed time — Proceedings if vitiated

(Dec) 458

—S. 48 — When existing operators call upon R. T. A. to fix number of buses on route before entertaining applications for permit, R. T. A. bound to do so — R. T. A. cannot consider applications without prior determination under Section 47 (3) — Opportunity to existing operators has to be given. (W. P. No. 1984/1967, Reversed) — See

Motor Vehicles Act (contd.)

Motor Vehicles Act (1939), Sections 47 (3), 47 (1) (Nov) 441

—S. 48 (3) (iii) and (iv) — Madras Motor Vehicles Rules (1940), Rules 134-A (xv), 134-A (xvii) and 269 (as amended in 1959) — Power to determine schedule of timings for stage carriages on a route — Authority to whom this power is delegated can alter or modify individual timings — AIR 1965 Mad 91, Overruled (Sep) 356A

—S. 57 — Determination under Sec. 47 (3) — Existing operators should be given opportunity for representation. (W. P. No. 1984/1967, Reversed) — See Motor Vehicles Act (1939), Sections 47 (3), 47 (1) (Nov) 441

—S. 57 (3) — Proceedings under Section 57 (3) without prior determination of permits to be granted under Section 47 (3) — Failure of petitioner to make representations under Section 57 (3) within prescribed time — Proceedings if vitiated — See Motor Vehicles Act (1939), Section 47 (3) (Dec) 458

—Ss. 58 and 61 — Application for renewal of permit — Death of applicant during pendency of application and after date of expiry of permit to be renewed — Heir of deceased succeeding to possession of vehicle can continue renewal proceeding and get permit transferred to him (Feb) 55

—S. 61 — Death of applicant pending application for renewal of his permit — Heir can continue renewal proceeding and get permit transferred to him — See Motor Vehicles Act (4 of 1939), Section 58 (Feb) 55

—Ss. 64, 68 — State Transport Appellate Authority, being authority constituted under Act, in absence of authorisation to do so, cannot question validity of Act or rule framed thereunder (Mar) 93

—S. 64-A — Regional Transport Authority altering time table — No revision maintainable with State Transport Appellate Tribunal — See Motor Vehicles Act (1939), Section 134 (Sep) 356C

—S. 68 — State Transport Authority constituted under the Act — Cannot question validity of Act or Rule framed thereunder unless authorised to do so — See Motor Vehicles Act (1939), Section 64 (Mar) 93

—Ss. 68 (1), 44 (5) — Rules under Section 68 (1) — Madras Motor Vehicle Rules (1940), Rule 134-A (xi) — Delegation under — Not based on reasonable classification — Rule 134-A (xi) is ultra vires Article 14 of the Constitution of India (Jun) 223

—Ss. 110 and 110-D — Claim for death caused in accident — Determination of damages — Principles — Quantum awarded by Claims Tribunal — Interference in Appellate Court — Conditions for, stated (May) 180A

Motor Vehicles Act (contd.)

—Ss. 110-A (3) and 110-D (1) — Application to condone delay in filing claims application — Dismissal of, amounts to rejection of application for compensation itself — Consequently appeal under Section 110-D (1) against such rejection, is competent (Aug) 316A

—S. 110-A (3) — Claims Tribunal constituted on 12-7-1961 — Period of 60 days will commence from that date — Accident taking place prior to constitution of Tribunal — Claimant thinking that his remedy in Civil Court remained unaffected and that period of limitation available was one year for filing suit in Civil Court — On return of plaint by Civil Court, petition presented before Tribunal along with application to condone delay under proviso to Section 110-A (3) — Delay held could be excused — Rejection on ground that ignorance of law was no excuse would be to take unduly narrow and technical view — Peculiar circumstances relating to new forum after occurrence of accident and consequential belief that might be entertained by the claimant that earlier remedy was still available should be taken note of (Aug) 316B

—S. 110-D — Claim for death caused in accident — Determination of damages — Principles — See Motor Vehicles Act (1939), Section 110 (May) 180A

—S. 110-D (1) — Application for claim delayed — Delay not condoned amounts to order of rejection — Appeal lies — See Motor Vehicles Act (1939), Section 110-A (3) (Aug) 316A

—Ss. 134, 64-A — Order of Regional Transport Authority altering or modifying individual timings in respect of prior time table — Revisional jurisdiction of State Transport Appellate Tribunal against such order is not open. (Sep) 356C

Negotiable Instruments Act (26 of 1881), S. 9 — Suit by indorsee — Death of principal — Effect — See Negotiable Instruments Act (1881), Section 48 (Mar) 83A

—Ss. 48, 50, 9 — Indorsement for collection by principal — Indorsee filing suit — Death of principal — Suit is not affected (Mar) 83A

—Ss. 48, 50 — 'A' executing negotiable instrument in favour of 'B' — B endorsing it in favour of 'C' for collection — C filing suit against A — B, principal dying pendente lite — 'A' can be saved from possible further claim by heirs of 'B', by impleading them as parties (Mar) 83B

—S. 50 — Indorsement for collection by principal — Indorsee filing suit — Death of principal — Suit not affected — See Negotiable Instruments Act (1881), Sec. 48 (Mar) 83A

—S. 50 — Suit by indorsee of instrument — Death of principal pending suit — Effect — See Negotiable Instruments Act (1881), Section 48 (Mar) 83B

Oaths Act (10 of 1873), S. 12 — Constitutionality — Does not offend Article 14 of the Constitution (Mar) 90

Partition Act (4 of 1893), S. 4 — Hindu joint family — Purchaser of coparcener's share — Right of — See Hindu Law (Nov) 416B

Partnership Act (9 of 1932), S. 6 — Non-reconstitution of firm — Finding of is one of fact — See Civil P. C. (1908), Section 100 (Jul) 257A

—S. 39 — Finding of non-reconstitution of firm is one of fact — See Civil P. C. (1908), Section 100 (Jul) 257A

—Ss. 46, 48 — Lien of partner's representative on assets of partnership after dissolution is on surplus of assets — Suit by legal representative of deceased partner for share in assets of partnership is governed by Article 106, Limitation Act (Jul) 257D

—S. 47 — Surviving partners of dissolved firm can sell assets of firm in the course of winding up (Jul) 257C

—S. 48 — Lien of deceased partners representative on assets of partnership after dissolution is on surplus of assets — See Partnership Act (1932), Section 46 (Jul) 257D

Payment of Bonus Act (21 of 1965), S. 1 (4) — Scope — It enables provisions of the Act to operate in respect of accounting year commencing on any day in year 1964 and in respect of every subsequent year, to that extent Act would have retroactive effect (Nov) 440A

—S. 2 (vi) — Bonus included in Wages for purposes of Section 60, Civil P. C. — See Civil P. C. (1908), Section 60 (Nov) 440B

—S. 2 (21) (iv) — Bonus included in wages for purposes of Section 60, Civil P. C. — See Civil P. C. (1908), Section 60 (Nov) 440B

—S. 3 proviso — Company having three undertakings with separate balance sheets and profit and loss accounts — Bonus claimed by employees of one unit — Basis of allocable surplus — Balance sheet of the whole company should be taken into account — Words "balance sheet and profit and loss account", in proviso to Section 3 should be given same meaning as under Companies Act (Oct) 370

—S. 10 — Interpretation of — See Payment of Bonus Act (1965), Section 36 (Jul) 273

—S. 34 (3) — Application under Section 36 — No absolute discretion in Govt. to refuse to grant exemption — See Payment of Bonus Act (1965), Section 36 (Jul) 273

—Ss. 36, 10 and 34 (3) — Interpretation of Sections 36 and 10 — Application under Section 36 — No absolute discretion in Government to refuse to grant exemption — It is bound to exercise its powers under Section 36 and pass such order as it thinks fit giving reasons for the same (Jul) 273

Penal Code (45 of 1860), S. 177 — S. 52 of Income-tax Act, 1922 does not repeal the section — See Income-tax Act (1922), Section 52 (May) 145A

—S. 224 — Offence of escaping or attempting to escape from lawful custody — 'Intention' is not the gist of the offence: AIR 1950 Orissa 62, Dissent from (Nov) 408

—S. 441 — Striking workmen remaining in factory premises after working hours — Act of striking workmen amounts to criminal trespass under the section — See Criminal Procedure Code (5 of 1898), S. 561A (Feb) 33

—Ss. 482, 486 — Trade and Merchandise Marks Act (1958), Sections 78, 79 — Offence of infringement of Trade Mark and that of infringement of property mark — Distinction — Complaint only of infringement of property mark — Sub-Magistrate held could try that offence (Mar) 94

—S. 486 — Offence of Infringement of trade mark and infringement of property mark — Distinction — Complaint only on infringement of property mark — Sub-Magistrate held could try that offence — See Penal Code (1860), Section 482 (Mar) 94

Presidency Towns Insolvency Act (3 of 1909), Ss. 9 (e) and 12 (b) (c) — Civil P. C. (1908), Order 38, Rule 11 — Attachment before judgment of moveable property — Suit decreed and attachment made absolute on 20-11-1964 — Petition on 19-3-1965 to execute decree by sale of attached property — Petition ordered on 31-3-1965 — Insolvency petition on 7-7-1965 — Held, petition was within time — Period of three months had to be counted from date of completion of 21 days after filing execution petition (i.e., 19-3-1965) Order 38, Rule 11 could be relied upon for purpose of realising amount by sale of property without fresh attachment — That order could not be viewed as a deeming provision having the effect of dating execution petition retrospectively to date of decree itself when attachment is made absolute: Case law discussed (Apr) 112

—S. 12 (b), (c) — Act of insolvency — Attachment before judgment of movable property — Suit decreed and attachment made permanent — Attachment remained subsisting for a period of 21 days — Period of three months has to be counted from date of completion of 21 days after filing execution petition — See Presidency Towns Insolvency Act (1909), Section 9 (e) (Apr) 112

Prevention of Food Adulteration Act (37 of 1954), S. 16 (1) (b) (c) — Offence under Section 16 (1) (b) — Evidence and proof — Accused when called by inspector pouring milk and running away — Held (1) conviction under Section 16 (1) (b) could not be sustained in absence of evidence that Food Inspector had either expressed his intention to accused that he was going to take sample or that he had demanded the sample;

Prevention of Food Adulteration Act (contd.)
(2) accused could have been prosecuted and convicted under Section 16 (1) (c) but as the complaint was not laid under Clause (c) and opportunity to meet that charge was not given to him, conviction could not be altered to Section 16 (1) (c) (Mar) 85

Provincial Insolvency Act (5 of 1920), S. 4
— Claim of receiver — Son's share in joint family property attached and sold by creditor — Father later on adjudged insolvent — Receiver has no claim over property already sold — See Provincial Insolvency Act (1920), S. 28A (Oct) 382

—S. 28 (2) — Insolvent a Hindu Father — Son's share in family property sold prior to adjudication of father's insolvency — Property sold cannot be available to Receiver — See Provincial Insolvency Act (1920), Section 28A (Oct) 382

—S. 28 (7) — Adjudication of Hindu father — Joint family property vesting in Official Receiver — Rights of sons born subsequently, stated (Nov) 416A

—Ss. 28-A, 4 and 28 (2) — Power of Official Receiver to sell shares of insolvent's sons in joint family property — Nature and scope of — Same as that of Hindu father — Limitations on power of Hindu father — Son can put an end to father's power by selling his share — Attachment and sale of son's share by decree-holder creditor is sale by son — Such transaction puts end to father's power (Oct) 382

Railway Establishment Code

See under Civil Services.

Railway Protection Force Act (23 of 1957), Ss. 13, 21 — Rules framed under S. 21, R. 18 — Ordinary administrative security — Searches in the course of — Procedure prescribed not applicable (Jun) 201A

—S. 21 — Rules framed under S. 21, R. 18 — Ordinary administrative security — Searches in the course of — Procedure prescribed under, not applicable — See Railway Protection Force Act (1957), S. 13 (Jun) 201A

Registration Act (16 of 1908), S. 2 (6) — Immovable property — Moveable property imbedded in earth is not immovable property — See Transfer of Property Act (1882), Section 3 (Sep) 346

—S. 17 (1) — Purchase of immovable property by promoter of company — Absence of conveyance by promoter in favour of company under registered documents — No effect on transfer of title to company — See Transfer of Property Act (1882), S. 9 (Dec) 462C

—S. 49 — Deed of conveyance or sale deed — Admissibility — AIR 1934 Mad 418 and AIR 1937 Mad 22, held overruled by AIR 1943 Mad 761 (FB) — AIR 1929 SC 269 held no longer good law — See Specific Relief Act (1877), Section 21 (Nov) 418

Representation of the People Act (43 of 1951), Ss. 82, 90 — Returning Officer — Whether proper or necessary party to election petition (Apr) 116

—S. 90 — Returning officer — Whether proper or necessary party to election petition — See Representation of the People Act (1951), Section 82 (Apr) 116

Sale of Goods Act (3 of 1930), S. 4 — Transfer of right to exhibit film is not sale but lease — See Sales Tax — Madras General Sales Tax Act (1959), Section 2 (h) & (i) (Jul) 284C

SALES TAX

—Central Sales Tax Act (74 of 1956), S. 3 (a) — Occasions movement — Dealer despatching goods to out of State buyer pursuant to instructions of his out of State depot — Inter-State sale (Nov) 422

—Madras General Sales Tax Act (9 of 1939), S. 19 (4) — Madras General Sales Tax Rules (1939), Rule 17 (as amended from 1-4-1957) — Publication of draft of amended rules under Section 19 (4) — Repeal of Section 19 (4) — Failure of Government to comply with condition under Section 19 (4) before publishing final rule — Validity of Rule 17 is unaffected (Sep) 322B

—S. 61 — Madras General Sales Tax (Second Amendment) Act (10 of 1963) Section 2 — Act coming into force during pendency of appeal before Appellate Assistant Commissioner — Appeal respecting reopening of assessment relating to period of five years computed from 1957-58 — Amendment substituting new Section 61 in principal Act of 1939 effect of which is to apply 1939 Act to pending proceedings thus making Rule 17 of Madras General Sales Tax Rules 1939 applicable to appeal and not Section 16 of the Amendment Act of 1959 — Order of Appellate Assistant Commissioner, dated 18-10-1963 reopening assessment being beyond period of five years computed from 1957-58 is illegal (Sep) 322A

—Madras General Sales Tax Act (1 of 1959), Ss. 2 (j) and 2 (n) — Section 2 (j) and (n) is not ultra vires — See Constitution of India, Article 366 (12) (Jul) 284B

—S. 2 (j) (n) — Levy of Sales Tax on incorporeal moveable property is not ultra vires Article 366 (12) — See Constitution of India Article 366 (12) (Jul) 284B

—S. 2 (n) and (j) — Right to exhibit film — Transfer of, by owner of film to distributor — Whether amounts to sale — Held on construction of agreement, that it amounted to lease and not outright sale (Jul) 284C

—S. 3 (2), Sch. I, Entries 6, 7 — Exposed film is different article from raw film — Exposed film can be taxed under Section 3 (2), although it has suffered tax as raw film (Jul) 284D

—S. 4 — Refund — Limitation — Validity of rule — See Sales Tax — Madras General Sales Tax Rules (1959), R. 23 (3) (i) (Mar) 91A

Sales Tax — Madras General Sales Tax Act (contd.)

—S. 4 Proviso (prior to amendment by Act 6 of 1963) — 'Tax so levied shall be refunded' — For claiming refund, assessee need not pay tax — He can claim it as soon as it is levied (Mar) 91B

—S. 12 (3) — Scope and validity — Power to impose penalty — Power is ancillary to taxing power — Assessing authority is to exercise power with proper judicial discretion — Can be exercised only in cases of wilful non-disclosure intended to evade tax (Jul) 284E

—Sch. I Entry 6 — Exposed film is not raw film — See Sales Tax — Madras General Sales Tax Act (1959) S. 3 (2) (Jul) 284D

—Sch. I Entry 7 — Exposed film is not raw film — See Sales Tax — Madras General Sales Tax Act (1959) S. 3(2) (Jul) 284D

—Madras General Sales Tax (Second Amendment) Act (10 of 1963), S. 2 — Substitutes new Section 61 in Madras General Sales Tax Act (1939) in place of old one — See Sales Tax — Madras General Sales Tax Act (1939), Section 61 (Sep) 322A

—Madras General Sales Tax (Third Amendment) Act (19 of 1967), Section 2 — Act is not unconstitutional — See Constitution of India, Article 14 (Jul) 265

—S. 4 — Act is not unconstitutional — See Constitution of India, Article 14 (Jul) 265

—Madras General Sales Tax Rules (1939), R. 17 (as amended from 1-4-1957) — S. 19 (4) of Madras General Sales Tax Act (1939) requiring publication of rules repealed — Non publication of amended rules — Validity not affected — See Sales Tax — Madras General Sales Tax Act (9 of 1939), Section 19 (4) (Sep) 322B

—R. 17 (as amended from 1-4-1957) — Expression "For any reason" includes change of opinion — Reassessment of escaped turnover on that basis is valid (Sep) 322C

—Madras General Sales Tax Rules (1959), R. 23 (3) (i) — Madras General Sales Tax Act (1 of 1959), Section 4 Proviso — Prescribing period of limitation for refund under Rule 23 (3) (i) is not valid and should be declared ultra vires, as main Act does not prescribe any period of limitation (Mar) 91A

Specific Relief Act (1 of 1877), S. 3 — Purchase of immovable property by promoter for company — Benefit of purchase passes to company on its incorporation — Promoter stands in fiduciary position — See Trusts Act (1882), Section 94 (Dec) 462B

—S. 9 — Scope — Tenant holding over after expiry of lease — Has a possessory title (May) 191C

—S. 9 — Words "Due process of law" — Not equivalent to word legally — Whe-

Specific Relief Act (1877) (contd.)

ther power can be claimed to disturb quiet possession by force relying on terms in lease-deed drawn in conformity with statutory provisions (May) 191E

—S. 9 — Person inducted into possession without his transfer having right in law to do so — Such person cannot claim benefit of Section 53A of T. P. Act (May) 191F

—S. 9 — Judgment and decree under the section — Revision is maintainable — See Civil Procedure Code (5 of 1908), Sec. 115 (May) 191G

—S. 21 — Registration Act (1908), S. 49, Proviso — Unregistered document — Executants agreeing to sell properties and to execute a document of conveyance whenever demanded — Document held, merely an agreement to sell and a suit for specific performance could be based on it — Mere fact that the document mentioned that the executants had received sale consideration or that possession had been handed over did not mean that it was a deed of conveyance — Even if it should be deemed to be a sale-deed, it would be admissible in evidence in view of proviso to Section 49 — Earlier part could be separated from later part in which executants agreed to execute formal deed of conveyance — Agreement to execute formal deed of conveyance could be specifically enforced. AIR 1934 Mad 418 and AIR 1937 Mad 22 held overruled by AIR 1943 Mad 761 (FB); AIR 1929 FC 269 held no longer good law (Nov) 418

—S. 21 — Contract Act (1872), Sections 2 (d), 11 and 10 — Agreement for resale of properties in favour of minor plaintiff's father — Father assigning his rights to plaintiffs — Suit for specific performance in favour of plaintiffs can be decreed — Doctrine of want of mutuality — Test — Must be judged as on date of contract (Dec) 470

Specific Relief Act (47 of 1963), Ss. 34 and 37 — Elections to Executive Committee of Society — Party acquiescing in elections cannot be allowed to challenge validity of election (Feb) 42B

—S. 37 — Suit against society — Interim injunction — Principles — See Civil P. C. (1908), Order 39, Rule 1 (Feb) 42A

—S. 37 — Elections to Executive Committee of a Society — Party acquiescing in elections cannot be allowed to challenge them — See Specific Relief Act (1963), S. 34 (Feb) 42B

—S. 38 — When party can be directed to do equity — See Tort — Nuisance (Sep) 351

Stamp Act (2 of 1899), Ss. 2 (6), 2 (12), 2 (14), 2 (10), Sch. 1 Art. 23 — Instrument executed but conditions validating transfer of rights absent — Instrument not registered — However if instrument is fully dispositive in character it is chargeable to stamp duty. AIR 1936 Lah 449 (SB), Dissented (Jan) 1A (FB)

Stamp Act (contd.)

—Ss. 3 and 36 — Compromise decree providing interest on amount payable by one party to another — Stamp on decree paid late — Interest for earlier period can be claimed (Mar) 84

—S. 36 — Stamp on decree, providing interest payable by one party to other paid late — Interest for earlier period can be claimed — See Stamp Duty — Stamp Act (1899), S. 3 (Mar) 84

—Sch. I Art. 23 — Instrument executed but conditions validating transfer of rights absent — Instrument not registered — However if instrument is fully dispositive in character it is chargeable to Stamp duty. AIR 1936 Lah 449 (S.B.), Dissented — See Stamp Duty — Stamp Act (1899), Section 2 (6), 2 (12), 2 (14), 2 (10) (Jan) 1A (FB)

Succession Act (39 of 1925), S. 57 — Execution taken out by legatee of deceased decree-holder — Genuineness of will can be considered in execution itself — Sections 213 and 57 did not oust jurisdiction of executing Court — ILR (1964) 2 Mad 363, Dissented from — See Civil P. C. (1908), S. 47 (Jul) 271

—S. 74 — Will — Construction — Duty of Court — Intention of testator how to be ascertained — Judicial decisions interpreting other wills — Extent of their utility (Jun) 217A

—Ss. 106, 107 — Hindu testator — Bequest in favour of wife and daughter — Held, on construction of will, that bequest was not joint bequest. S. A. No. 15 of 1962 (Mad), Reversed (Mar) 96A

—S. 106 — 'Two persons jointly' — Interpretation (Mar) 96B

—S. 106 — Section is not a rule of construction of a will, but a provision for devolution. AIR 1960 Andh Pra 368, Dissent from (Mar) 96C

—S. 107 — Hindu testator — Bequest in favour of wife and daughter — Held not joint — See Succession Act (1925), S. 106 (Mar) 96A

—Ss. 129, 130 — Scope — Failure of prior gift — Gift over when can take effect — Intention of testator that gift over is to take effect even when contingency occurs in manner not specified in will, must be proved — Absence of such intention — S. 130, applies (Jun) 217B

—S. 130 — Will — Failure of prior gift — Gift over when can take effect — See Succession Act (1925), Section 129 (Jun) 217B

—S. 213 — Execution taken out by legatee of deceased decree-holder — Genuineness of will can be determined in execution itself — Ss. 213 and 57 did not oust jurisdiction of executing court — ILR (1964) 2 Mad 363, Dissented from — See Civil P. C. (1908), Section 47 (Jul) 271

TENANCY LAWS

—Madras Cultivating Tenants (Payment of Fair Rent) Act (24 of 1956), S. 6 — Fair rent fixed — Tenant raising sugarcane instead of paddy — Landlord can claim increased rent — See Tenancy Laws — Madras Cultivating Tenants (Payment of Fair Rent) Act (24 of 1956), Section 15 (Nov) 437A

—Ss. 15 and 6 — Scope — Fair rent already fixed — Tenant subsequently raising sugarcane instead of paddy — Landlord claiming increased rent — Fair rent already fixed will have no effect on landlord's claim (Nov) 437A

—Madras Cultivating Tenants Protection Act (25 of 1955), S. 2 (a) — Cultivating Tenant — Private agricultural land of landlord — Agricultural lease is governed by the Act and not by Transfer of Property Act — Heirs of original lease are cultivating tenants and not trespassers (May) 172A

—Madras Estates (Abolition and Conversion into Ryotwari) Act (26 of 1948), S. 56 — Title to ryotwari land — Power of Civil Court to decide, not taken away by the Act much less by Section 56 — See Civil P. C. (1908), Section 9 (Jan) 14

—Madras Estates Land (Reduction of Rent) Act (30 of 1947), S. 3A (4) (b) — Question whether particular land is private land or ryoti land — Decision of Tribunal on appeal is final and Civil Court's jurisdiction is expressly barred — See Civil P. C. (1908), Section 9 (May) 172C

Tort — Nuisance — Abatement of — Villagers having common right to use water in a tank belonging to Government — Suit by some villagers in representative capacity to restrain defendants from laying salt pans in tank bed and making water saltish — Plaintiffs held entitled to injunction — Fact that other people had made water of tank saltish by establishing salt pans around tank bed is no defence (Sep) 351

Trade and Merchandise Marks Act (43 of 1958), Ss. 11, 14 — Device of "Ganesh" as Trade Mark — Deity respected by all Hindus — There is nothing to show that it is unregistrable (Obiter) (Apr) 126B

—S. 14 — Device of "Ganesh" as Trade Mark — Deity respected by all Hindus — There is nothing to show that it is unregistrable (Obiter) — See Trade and Merchandise Marks Act (1958), Section 11 (Apr) 126B

—Ss. 56, 107 — Trade Mark of device of Lord "Ganesh" and legend "Ganesh Durbar Bathi" acquiring distinctiveness of applicants goods — No abandonment — Unsuccessful attempts by others, of piracy — Distinctiveness is not lost — Mark when becomes publici juris — Concealed piracy — Effect — Rectification sought — Onus is on

Trade and Merchandise Marks Act (contd.)
applicant to show that distinctiveness is lost (Apr) 126A

—S. 78 — Infringement of trade mark and that of property mark — Distinction — See Penal Code (1860), S. 482

—S. 79 — Infringement of property mark and that of trade mark — Distinction — See Penal Code (1860), S. 482

—S. 107 — Trade mark of device of Lord "Ganesh" and legend "Ganesh Durbar Bathi" acquiring distinctiveness of applicants goods — No abandonment — Unsuccessful attempts by others of piracy—Distinctiveness is not lost — Rectification sought — Onus is on applicant to show that distinctiveness is lost — See Trade and Merchandise Marks Act (1958), Section 56

(Apr) 126A

Transfer of Property Act (4 of 1882), S. 3
— Immovable property — Definition of — Chattel attached to earth or building — When becomes immovable property. A. S. Nos. 96 and 109 of 1958, D/- 23-1-1963 (Mad), Reversed

(Sep) 346

—S. 5 — Purchase of immovable property by promoter of company — Adoption of benefit of purchase by Company — Absence of conveyance by promoter in favour of company under registered document — No effect on transfer of title to company — See Transfer of Property Act (1882), S. 9

(Dec) 462C

—S. 8 — Transfer of right to exhibit film held amounted to lease and not outright sale — See Sales Tax — Madras General Sales Tax Act (1959), S. 2 (h) & (j)

(Jul) 284C

—Ss. 9, 5, 54 — Purchase of immovable property by promoter of company — Adoption of benefit of purchase by Company — Absence of conveyance by promoter in favour of Company under registered document — No effect on transfer of title to Company

(Dec) 462C

—S. 53A — Benefit under the section — Who can claim — See Specific Relief Act (1877), Section 9

(May) 191F

—S. 54 — Redemption of mortgage right by one member of sub-tarwad — Other members can get possession only on payment of expenditure incurred for impugning sub-mortgage — Sale of property by other members — Purchaser gets no title in property

(Jun) 227A

—S. 54 — Purchase of immovable property by promoter of company — Absence of conveyance by promoter in favour of company under registered document — No effect on transfer of title to company — See Transfer of Property Act (1882), S. 9

(Dec) 462C

—Ss. 92, 95 — Mortgage by A and B of their joint property to C — B individually indebted to D on a pro-note — D obtaining decree against 'B', putting property to sale

Transfer of Property Act (contd.)

purchasing the same and redeeming C's charge — D subrogated to rights of C — A is entitled to redeem his share by paying his dues on mortgage and expenses to D

(Jan) 27A

—S. 95 — Mortgage of joint property by owners — Partial redemption — See T. P. Act (1882), Section 92

(Jan) 27A

—S. 105 — Lease or licence — Determination of

(May) 191A

—S. 105 — Rent — Fixation of — Tenancy not expressly connoting rent payable by tenant — Court has jurisdiction to fix reasonable market rent — Basis for fixation of rent

(Nov) 437B

—S. 105 — Words "Premium or other like sums" — They are sums paid in excess of agreed rent in consideration of grant, continuance or renewal of tenancy — See Houses and Rents — Madras Buildings (Lease and Rent Control) Act (18 of 1960), Section 7 (2)

(Dec) 473C

—S. 117 — 'Cultivating tenant' — Agricultural lease is governed by Madras Cultivating Tenants Act and not by the T. P. Act — See Tenancy Laws — Madras Cultivating Tenants Protection Act (25 of 1955), Section 2 (a)

(May) 172A

Trusts Act (2 of 1882), S. 3. — Purchase of immovable property by promoter for company — No trust as defined by Section 3 is brought about by the purchase — See Trusts Act (1882), Section 94

(Dec) 462B

—S. 82 — Benami transactions — Source of consideration — Onus — See Evidence Act (1872), Secs. 101 to 104

(Jul) 252A

—S. 88 — Lien of partner's representative on assets of partnership after dissolution is on surplus assets — Fiduciary relationship between legal representative of deceased partner and surviving partners — See Partnership Act (1932), Sec. 46

(Jul) 257D

—S. 88 — Purchase of immovable property by promoter for company — Benefit of purchase passes to company on its incorporation — See Trusts Act (1882), S. 94

(Dec) 462B

—S. 88 — Purchase of immovable property by promoter of company — Adoption of benefit of purchase by Company — Absence of conveyance by promoter in favour of Company under registered document — No effect on transfer of title to Company — See Transfer of Property Act (1882), S. 9

(Dec) 462C

—S. 92 — Purchase of immovable property by promoter for company under incorporation — Promoter stands in a fiduciary position — Section 92 not attracted — See Trusts Act (1882), Section 94

(Dec) 462B

—Ss. 94, 92, 88, 3 — Promoter of Company — Status of — Purchase of immovable property by promoter for Company — Benefit of purchase passes to Company on its incorporation

(Dec) 462B

Wakf Act (29 of 1954), Ss. 2, 15 — Wakf created before Act — Scheme framed by

Wakf Act (contd.)

Civil Court in force — Wakf Board has power to direct Mutavalli to get properties registered under Act and to submit accounts etc. to it — Mutavalli need not file any return to Civil Court under the Scheme

(Sep) 350

—S. 3 (f) — Mutawalli — Definition of — It includes person who for time being manages wakf property (Mar) 66B

—S. 6 — Scope — Not resorting to remedy under section will preclude party from raising same question in writ proceedings (Mar) 66A

—S. 15 — Wakf created before Act — Scheme framed by Civil Court in force — Wakf Board has power to direct Mutavalli to get properties registered under Act and to submit accounts etc. to it — Mutawalli need not file any return to Civil Court under the Scheme — See Wakf Act (1954), S. 2

(Sep) 350

Wealth-tax Act (27 of 1957), S. 2 (m) (ii) — Scope — Purchase of majority shares of (K) Company by 'S' Company — Purchase of its assets — Subsequently by 'S' Company — Debt incurred for purchasing assets is not covered by Section 2 (m) (ii) — Its deduction for computing net wealth is permissible (Sep) 359A

—S. 3 — Wealth-tax — Not for making or earning income — It is not admissible deduction under Income-tax Act — See Income-tax Act (1961), Section 57 (iii)

(Mar) 69

Wealth-tax Act (contd.)

—S. 4 — Wealth-tax — Nature of — See Income-tax Act (1961), Section 57 (iii) (Mar) 69

Words & Phrases — "Acquire" — See Defence of India Rules (1962), Chap. IV, Part XIII-A Rule 126-I (10) (Jun) 233B

— "Agreed Rent" — See Houses & Rents — Madras Buildings (Lease and Rent Control) Act (18 of 1960), Section 7

(Dec) 473D

— "Balance sheet and profit and loss account" — See Payment of Bonus Act (1965), Section 3 proviso (Oct) 370

— "Immovable property" — Meaning of — See Transfer of Property Act (1882), S. 3 (Sep) 346

— Word "may" in Order 39, Rule 8, Civil P. C. — Meaning — See Civil Procedure Code (5 of 1908), Order 39, Rule 6

(Jun) 204A

— "Misconduct" — Meaning of — See Industrial Disputes Act (1947), S. 33 (2) (b) (Apr) 121C

— "Paid", meaning of — See Industrial Disputes Act (1947), Section 33 (2) (b)

(Mar) 87A

— "Person aggrieved" — See Electricity Act (1910), Section 50 (Jul) 280

— "Premium or other like sums" — See Houses and Rents — Madras Buildings (Lease and Rent Control) Act (18 of 1960), Section 7 (2) (Dec) 473C

— "Public purpose" — See Civil P. C. (1908), Pre (May) 183B

MADRAS SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM, ETC., IN A. I. R. 1969

DISS.=Dissented from in; NOT F.= Not followed in; OVER.=Overruled in;
REVERS.=Reversed in

Banking Companies Act (10 of 1949)

—S. 45A — AIR 1958 Mad 403 — Diss. AIR 1969 Pat 184 (Jun).

—S. 45B — AIR 1958 Mad 403 — Diss. AIR 1969 Pat 184 (Jun).

Civil Procedure Code (5 of 1908)

—S. 47 — ILR (1964) 2 Mad 363 — Diss. AIR 1969 Mad 271 (Jul).

—S. 115 — AIR 1926 Mad 18 — Not. F. AIR 1969 Mad 191G (May).

—S. 115 — AIR 1945 Mad 103 — Diss. AIR 1969 Mys 77 (Mar).

—S. 115 — (1958) 2 Mad LJ 93 — Diss. AIR 1969 Orissa 10A (Jan).

—S. 115 — (1959) 72 Mad LW 361 — Not F. AIR 1969 Mad 191G (May).

—S. 146 — ILR (1964) 2 Mad 363 — Diss. AIR 1969 Mad 271 (Jul).

—O. 6, R. 17 — AIR 1928 Mad 400 — Diss. AIR 1969 Ker 75 (Mar).

—O. 6, R. 17 — (1959) 1 Mad LJ 307 — Diss. AIR 1969 Ker 75 (Mar).

Civil P. C. (contd.)

—O. 21, R. 16 — ILR (1964) 2 Mad 363 — Diss. AIR 1969 Mad 271 (Jul).

—O. 21, R. 35 (2) — AIR 1955 Mad 288 — Held impliedly overruled by AIR 1966 SC 470 As interpreted. AIR 1969 Mad 81 (Mar).

—O. 21, R. 35 (2) — AIR 1964 Mad 53 (FB) — Held impliedly overruled by AIR 1966 SC 470 As interpreted. AIR 1969 Mad 81 (Mar).

—O. 21, R. 63 — AIR 1954 Mad 203 — Diss. AIR 1969 Andh Pra 192 (Jun).

—O. 21, R. 96 — AIR 1955 Mad 288 — Held impliedly overruled by AIR 1966 SC 470 As interpreted. AIR 1969 Mad 81 (Mar).

—O. 21, R. 96 — AIR 1964 Mad 53 (FB) — Held impliedly overruled by AIR 1966 SC 470 As interpreted. AIR 1969 Mad 81 (Mar).

—O. 21, R. 98 — AIR 1937 Mad 582 — Diss. AIR 1969 Mad 166 (May).

Civil P. C. (contd.)

- O. 21, R. 98 — (1949) 1 MLJ 286 — Held overruled by AIR 1949 Mad 586 (FB) as interpreted. AIR 1969 Mad 166 (May).
- O. 21, R. 98 — AIR 1954 Mad 203 — Diss. AIR 1969 Andh Pra 192 (Jun).
- O. 21, R. 99 — AIR 1954 Mad 203 — Diss. AIR 1969 Andh Pra 192 (Jun).
- O. 21, R. 101 — AIR 1954 Mad 203 — Diss. AIR 1969 Andh Pra 192 (Jun).
- O. 21, R. 103 — AIR 1937 Mad 582 — Held overruled by AIR 1949 Mad 586 (FB) as interpreted. AIR 1969 Mad 166 (May).
- O. 21, R. 103 — (1949) 1 MLJ 286 — Held overruled by AIR 1949 Mad 586 (FB) as interpreted. AIR 1969 Mad 166 (May).
- O. 21, R. 103 — AIR 1954 Mad 203 — Diss. AIR 1969 Andh Pra 192 (Jun).
- O. 23, R. 1 — AIR 1928 Mad 400 — Diss. AIR 1969 Ker 75 (Mar).
- O. 23, R. 1 — (1959) 1 Mad LJ 307 — Diss. AIR 1969 Ker 75 (Mar).
- O. 33, R. 2 — (1958) 2 Mad LJ 93 — Diss. AIR 1969 Orissa 10A (Jan).

Companies Act (1 of 1956)

- S. 220 (1) — AIR 1937 Mad 342 — Held no longer good law in view of AIR 1961 SC 186 as interpreted. AIR 1969 Orissa 234 (Sep).

Constitution of India

- Art. 226 — (1963) 2 Lab LJ 60 (Mad) — Held impliedly overruled by AIR 1963 SC 779 — AIR 1969 Mad 275C (Jul).
- Art. 301 — ('67) W. P. No. 836 of 1966 D/- 7-4-1967 (Mad) — Revers. AIR 1969 SC 147 (Feb).
- Art. 302 — ('67) W. P. No. 836 of 1966, D/- 7-4-1967 (Mad) — Revers. AIR 1969 SC 147 (Feb).
- Art. 303 — ('67) W. P. No. 836 of 1966, D/- 7-4-1967 (Mad) — Revers. AIR 1969 SC 147 (Feb).
- Art. 311 — (1963) 2 Lab LJ 60 (Mad) — Held impliedly overruled by AIR 1963 SC 779 as interpreted — AIR 1969 1969 Mad 275C (Jul).

Contract Act (9 of 1872)

- S. 25, sub-section (3) — (1910) 20 Mad LJ 656 — Diss. AIR 1969 Orissa 301A (Dec).
- S. 56 — ('62) Appeal No. 367 of 1958, D/- 16-3-1962 (Mad) — Revers. AIR 1969 SC 110B (Jan).
- S. 73 — AIR 1964 Mad 183 — Diss. AIR 1969 Bom 373C (Nov).

CO-OPERATIVE SOCIETIES

- Maharashtra Co-operative Societies Act (24 of 1961)
- S. 2 (2) — AIR 1930 Mad 869 — Over. AIR 1969 SC 724A (Aug).
- S. 2 (2) — AIR 1934 Mad 40 — Over. AIR 1969 SC 724A (Aug).

Co-operative Societies — Maharashtra Co-operative Societies Act (contd.)

- S. 2 (2) — AIR 1935 Mad 673 — Over. AIR 1969 SC 724A (Aug).
- S. 95 — AIR 1930 Mad 869 — Over. AIR 1969 SC 724A (Aug).
- S. 95 — AIR 1934 Mad 40 — Over. AIR 1969 SC 724A (Aug).
- Ss. 95, 96 — AIR 1935 Mad 673 — Over. AIR 1969 SC 724A (Aug).
- S. 96 — AIR 1930 Mad 869 — Over. AIR 1969 SC 724A (Aug).
- S. 96 — AIR 1934 Mad 40 — Over. AIR 1969 SC 724A (Aug).

Criminal Procedure Code (5 of 1898)

- S. 145 (1) — (1912) 23 Mad LJ 499 — Held no longer good law. AIR 1969 Mad 411 (Nov).
- S. 145 (4) — AIR 1920 Mad 209 — Diss. AIR 1969 Raj 82A (Mar).
- S. 145 (4) — 1933 Mad WN 917 — Diss. AIR 1969 Ker 188A (Jun).
- S. 146 (2) — 1933 Mad WN 917 — Diss. AIR 1969 Ker 188A (Jun).
- S. 222 — AIR 1917 Mad 524 — Diss. AIR 1969 Bom 1A (Jan).
- S. 234 — AIR 1917 Mad 524 — Diss. AIR 1969 Bom 1A (Jan).
- S. 247 — AIR 1930 Mad 1001 — Diss. AIR 1969 All 513A (Nov).
- S. 247 — AIR 1943 Mad 6 — Diss. AIR 1969 All 513A (Nov).
- S. 403 — AIR 1917 Mad 524 — Diss. AIR 1969 Bom 1A (Jan).
- S. 488 (1) — AIR 1914 Mad 594 — Diss. AIR 1969 Delhi 235A (Aug).
- S. 488 (1) — AIR 1950 Mad 394 — Diss. AIR 1969 Delhi 235A (Aug).
- S. 488 (1) — (1964) 2 Mad LJ 70 — Diss. AIR 1969 Delhi 235A (Aug).
- S. 488 (1) — AIR 1967 Mad 77 — Diss. AIR 1969 Delhi 235A (Aug).
- S. 561A — AIR 1917 Mad 524 — Diss. AIR 1969 Bom 1A (Jan).

Employees' State Insurance Act (34 of 1948)

- S. 2 (12) — AIR 1961 Mad 7 — Over. AIR 1969 Mad 155A (May).

Evidence Act (1 of 1872)

- S. 3 — AIR 1924 Mad 708 — Diss. AIR 1969 Punj 244A (Jul).

Guardians and Wards Act (8 of 1890)

- S. 17 — AIR 1955 Mad 451 — Diss. AIR 1969 Mad 365A (Sep).
- S. 19 (b) — AIR 1955 Mad 451 — Diss. AIR 1969 Mad 365A (Sep).
- S. 25 — AIR 1955 Mad 451 — Diss. AIR 1969 Mad 365A (Sep).

HOUSES AND RENTS

- Madras City Tenants Protection Act (3 of 1922)
- S. 2 (2) (1) — ('65) A. A. O. No. 1 of 1962, D/- 26-4-1965 (Mad) — Revers. AIR 1969 SC 435 (Jun).

Houses and Rents — Madras City Tenants Protection Act (contd.)

- S. 3 — ('65) A. A. O. No. 1 of 1962 D/- 26-4-1965 (Mad) — Revers. AIR 1969 SC 435 (Jun).
- S. 9 — ('65) A. A. O. No. 1 of 1962, D/- 26-4-1965 (Mad) — Revers. AIR 1969 SC 435 (Jun).
- S. 12 — ('65) A. A. O. No. 1 of 1962, D/- 26-4-1965 (Mad) — Revers. AIR 1969 SC 435 (Jun).

Income-tax Act (11 of 1922)

- S. 10 (2) — (1964) 51 I. T. R. 631 (Mad) — Over. AIR 1969 SC 812A (Sep).
- S. 161 — (1960) 40 I. T. R. 377 — Over. AIR 1969 SC 888B (Oct).
- S. 166 — (1960) 40 I. T. R. 377 — Over. AIR 1969 SC 888B (Oct).

Income-tax (Appellate Tribunal) Rules (1946)

- R. 24 (as amended in 1948) — AIR 1955 Mad 39 — Over. AIR 1969 SC 1068 (Nov).

Industrial Disputes Act (14 of 1947)

- S. 33 (2) (b) — ('66) W. P. No. 815 of 1962 (Mad) — Over. AIR 1969 Mad 87A (Mar).

Land Acquisition Act (1 of 1894)

- S. 17 (4) — ('61) W. P. No. 505 of 1961 (Mad) — Diss. and Held Impliedly overruled by AIR 1967 SC 1081 as Interpreted. AIR 1969 Mad 140B (Apr).
- S. 17 (4) — ('62) W. P. No. 795 of 1962 (Mad) — Diss. and Held Impliedly overruled by AIR 1967 SC 1081 as Interpreted. AIR 1969 Mad 104B (Apr).
- S. 17 (4) — ('64) W. P. No. 1555 of 1964 (Mad) — Diss. and Held Impliedly overruled by AIR 1967 SC 1081 As Interpreted. AIR 1969 Mad 104B (Apr).
- S. 17 (4) — AIR 1965 Mad 328 — Diss. and Held Impliedly Overruled by AIR 1967 SC 1081 as interpreted. AIR 1969 Mad 104B (Apr).

Limitation Act (9 of 1908)

- S. 10 — ('61) S. A. No. 850 of 1961 (Mad) — Revers. AIR 1969 Mad 401 (Nov).
- S. 13 — AIR 1928 Mad 1088 — Held Rightly Overruled by AIR 1955 Mad 96 (FB) As Interpreted. AIR 1969 SC 552B (Jul).
- S. 13 — AIR 1944 Mad 437 — Held 96 (FB) As Interpreted. AIR 1969 SC 552B (Jul).
- Art. 95 — AIR 1928 Mad 1088 — Held Rightly Overruled by AIR 1955 Mad 96 (FB) As Interpreted. AIR 1969 SC 552B (Jul).
- Art. 95 — AIR 1944 Mad 437 — Held Rightly Overruled by AIR 1955 Mad 96 (FB) As Interpreted. AIR 1969 SC 552B (Jul).

Limitation Act (1908) (contd.)

- Art. 99 — AIR 1936 Mad 782 — Diss. AIR 1969 All 409B (Aug).
- Art. 99 — AIR 1954 Mad 185 — Diss. AIR 1969 All 409B (Aug).
- Art. 102 — AIR 1961 Mad 486 — Diss. AIR 1969 Punj 441A (FB). (Dec).
- Art. 102 — AIR 1963 Mad 425 — Diss. AIR 1969 Punj 441A (FB) (Dec).
- Art. 120 — ('61) S. A. No. 850 of 1961 (Mad) — Revers. AIR 1969 Mad 401 (Nov).

Limitation Act (36 of 1963)

- Art. 85 — AIR 1926 Mad 224 — Diss. AIR 1969 Andh Pra 294C (Aug).

Minimum Wages Act (11 of 1948)

- S. 20 (2) Second Proviso — AIR 1965 Mad 292 — Diss. AIR 1969 Mys 202B (Jun).

Motor Vehicles Act (4 of 1939)

- S. 3 (3), (19), (20), (22), (23) — AIR 1963 Mad 413 — Over. AIR 1969 SC 493A (Jun).
- Ss. 3 (3), (19), (20), (22), (23) — AIR 1967 Mad 100 — Revers. AIR 1969 SC 493A (Jun).
- S. 42 (1) — AIR 1963 Mad 413 — Over. AIR 1969 SC 493A (Jun).
- S. 42 (1) — AIR 1967 Mad 100 — Revers. AIR 1969 SC 493A (Jun).
- Ss. 47 (3), 47 (1) — W. P. No. 1984 of 1967 (Mad) — Revers. AIR 1969 Mad 441 (Nov).
- S. 48 — W. P. No. 1984 of 1967 (Mad) — Revers. AIR 1969 Mad 441 (Nov).
- S. 48 (3) (iii) and (iv) — AIR 1965 Mad 91 — Over. AIR 1969 Mad 356A (Sep).
- S. 57 — W. P. No. 1984 of 1967 (Mad) — Revers. AIR 1969 Mad 441 (Nov).
- S. 60 (1) (c) — AIR 1963 Mad 413 — Over. AIR 1969 SC 493A (Jun).
- S. 60 (1) (c) — AIR 1967 Mad 100 — Revers. AIR 1969 SC 493A (Jun).

MUNICIPALITIES

- Gujarat Municipalities Act (34 of 1963)
- S. 14 (5) (a) (iv) — AIR 1967 Mad 244 — Diss. AIR 1969 Guj 334 (Nov).

Penal Code (45 of 1860)

- S. 409 — AIR 1917 Mad 524 — Diss. AIR 1969 Bom 1A (Jan).
- S. 425 — AIR 1948 Mad 473 — Diss. AIR 1969 Orissa 200 (Aug).

Provident Funds Act (19 of 1925)

- S. 3 — AIR 1936 Mad 477 — Held No Longer good Law. AIR 1969 Punj 44 (Feb).
- S. 4 (1) (c) — AIR 1936 Mad 477 — Held No Longer good Law. AIR 1969 Punj 44 (Feb).

Provident Funds Act (contd.)

—S. 5 (as amended in 1946) — AIR 1936 Mad 477 — Held No Longer good Law. AIR 1969 Punj 44 (Feb).

Provincial Insolvency Act (5 of 1920)

—S. 6 — AIR 1929 Mad 910 (1) — Diss. AIR 1969 Andh Pra 318A (Sep).

—S. 53 — ('58) C. R. Petns. Nos. 981 and 982 of 1956, D/- 17-1-1958 (Mad) — Revers. AIR 1969 SC 1344A (Dec).

—S. 75 (1) first Proviso — ('58) C. R. Petns. Nos. 981 and 982 of 1956, D/- 17-1-1958 (Mad) — Revers. AIR 1969 SC 1344A (Dec).

Registration Act (16 of 1908)

—S. 9 — AIR 1934 Mad 418 — Held Overruled by AIR 1943 Mad 761 (FB) As Interpreted. AIR 1969 Mad 418 (Nov).

—S. 9 — AIR 1937 Mad 22 — Held Overruled by AIR 1943 Mad 761 (FB) AIR 1969 Mad 418 (Nov).

—S. 17 — AIR 1921 Mad 337 (FB) — Held No Longer good Law in view of T. P. (Amendment) Supplementary Act (1929) — AIR 1969 SC 1316A (Dec).

—S. 17 (1) (b) — AIR 1939 Mad 202 — Over. AIR 1969 SC 1147B (Dec).

—S. 17 (1) (b) — AIR 1940 Mad 140 — Over. AIR 1969 SC 1147B (Dec).

—S. 17 (1) (b) — O. S. A. Nos. 65, 70 71 of 1956 D/- 28-7-1961 (Mad) — Revers. AIR 1969 SC 1147B (Dec).

—S. 49 — AIR 1921 Mad 337 (FB) — Held no longer good law in view of T. P. (Amendment) Supplementary Act (1929) — AIR 1969 SC 1316A (Dec).

—S. 59 — AIR 1939 Mad 202 — Over. AIR 1969 SC 1147B (Dec).

—S. 59 — AIR 1940 Mad 140 — Over. AIR 1969 SC 1147B (Dec).

—S. 59 — O. S. A. Nos. 65, 70, 71 of 1956, D/- 28-7-1961 (Mad) — Revers. AIR 1969 SC 1147B (Dec).

Representation of the People Act (43 of 1951)

—S. 101 — ('68) Ele. Petn. No. 11 of 1967, D/- 28-5-1968 (Mad) — Revers. AIR 1969 SC 692C (Aug).

SALES TAX ...

—Central Sales Tax Act (74 of 1956)

—Pre. — (1967) 20 STC 150 (Mad) — Held Overruled by C. A. No. 763 of 1967, D/- 18-4-1968 (SC) As Interpreted. AIR 1969 Punj 121 (Jan).

—S. 2 (i) and (4) — (1966) 17 STC 396 (Mad) — Diss. AIR 1969 Ker 205 (Jul).

—S. 8 (1) (4) — AIR 1962 Mad 410 — Diss. AIR 1969 Pat 42 (Feb).

—S. 8 (1) (4) — AIR 1963 Mad 125 — Diss. AIR 1969 Pat 42 (Feb).

Specific Relief Act (1 of 1877)

—S. 21 — AIR 1934 Mad 418 — Held Overruled by AIR 1943 Mad 761 (FB) As Interpreted. AIR 1969 Mad 418 (Nov).

—S. 21 — AIR 1937 Mad 22 — Held overruled by AIR 1943 Mad 761 (FB) AIR 1969 Mad 418 (Nov).

Succession Act (39 of 1925)

—S. 57 — ILR (1964) 2 Mad 363 — Diss. AIR 1969 Mad 271 (Jul).

—S. 106 — ('62) S. A. No. 15 of 1962 (Mad) — Revers. AIR 1969 Mad 96A (Mar).

—S. 107 — ('62) S. A. No. 15 of 1962 (Mad) — Revers. AIR 1969 Mad 96A (Mar).

—S. 213 — ILR (1964) 2 Mad 363 — Diss. AIR 1969 Mad 271 (Jul).

Transfer of Property Act (4 of 1882)

—S. 3 — ('63) A. S. Nos. 96 and 109 of 1958, D/- 23-1-1963 (Mad) — Revers. AIR 1969 Mad 346 (Sep).

Trusts Act (2 of 1882)

—S. 88 — AIR 1960 Mad 410 — Revers. AIR 1969 SC 843A (Oct).

**MADRAS CASES OVERRULED, REVERSED AND
DISSENTED FROM, ETC., IN A. I. R. 1969**

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
REVERS.=Reversed in

(1910) 20 Mad LJ 656 = 7 Ind Cas 901, Ramaswami Pillai v. Kuppuswami Pillai — Diss. AIR 1969 Orissa 301A (Dec).

(1912) 23 Mad LJ 499 = ILR 36 Mad 275 Kamal Kutti v. Raja Valia Raja — Held no longer good law. AIR 1969 Mad 411 (Nov).

(14) AIR 1914 Mad 594 = ILR 37 Mad 565, Krishna Swami Iyer v. Chanda Vadana — Diss. AIR 1969 Delhi 235A (Aug).

(17) AIR 1917 Mad 524 = 17 Cri LJ 30, Appadurai In re — Diss. AIR 1969 Bom 1A (Jan).

(20) AIR 1920 Mad 209 = 21 Cri LJ 73, Gopala Aiyar v. Krishnaswamy Iyer — Diss. AIR 1969 Raj 82A (Mar).

(1921) AIR 1921 Mad 337 = ILR 44 Mad 55 (FB), Rama Sahu v. Gouro Ratho — Held no longer good law in view of T. P. (Amendment) Supplementary Act (21 of 1929). AIR 1969 SC 1316A (Dec).

- (24) AIR 1924 Mad 708 = 80 Ind Cas 378, Abdul Jaffar v. K. Venugopal Chettiar — Diss. AIR 1969 Punj 244A (July).
- (26) AIR 1926 Mad 18 = 50 Mad LJ 102, Veerasami Mudali v. Venkatachala Mudali — Not F. AIR 1969 Mad 191G (May).
- (26) AIR 1926 Mad 224 = 23 Mad LW 573, Govinda v. Ramaswamy — Diss. AIR 1969 Andh Pra 294C (Aug).
- (28) AIR 1928 Mad 400 = 54 Mad LJ 145, Singara Mudaliar v. Govindaswami Chetty — Diss. AIR 1969 Ker 75 (Mar).
- (28) AIR 1928 Mad 1088 = 28 Mad LW 645, Rathina v. Packiriswami — Held Rightly overruled by AIR 1955 Mad 96 (FB) as Interpreted. AIR 1969 SC 552B (Jul).
- (29) AIR 1929 Mad 910 (1) = 119 Ind Cas 46, Kandappa v. Pullappa — Diss. AIR 1969 Andh Pra 318A (Sep).
- (30) AIR 1930 Mad 869 = 32 Cri LJ 219, Thadi Subbi Reddi v. Emperor — Over. AIR 1969 SC 724A (Aug).
- (30) AIR 1930 Mad 1001 = 32 Cri LJ 429, Ekambara Mudali v. Alameluammal — Diss. AIR 1969 All 513A (Nov).
- (33) 1933 Mad WN 917, Ramakrishnan Pillai v. S. Narayana Chettiar — Diss. AIR 1969 Ker 188A (Jun).
- (34) AIR 1934 Mad 40 = ILR 57 Mad 426 (FB), Velayuda Mudali v. Co-operative Rural Credit Society — Over. AIR 1969 SC 724A (Aug).
- (34) AIR 1934 Mad 418 = 67 Mad LJ 54, Mopurappa v. Ramaswami Gramani — Held overruled by AIR 1943 Mad 76 (FB) As Interpreted. AIR 1969 Mad 418 (Nov).
- (35) AIR 1935 Mad 673 = 36 Cri LJ 895, Y. Mahabaleswarappa v. Gopalasami Mudaliar — Over. AIR 1969 SC 724A (Aug).
- (36) AIR 1936 Mad 477 = ILR 59 Mad 855, Mon Singh v. Moti Bai — Held no longer good law. AIR 1969 Punj 44 (Feb).
- (36) AIR 1936 Mad 782 = 1936 Mad WN 658, Meghvaranam v. Md. Mohideen Sahib — Diss. AIR 1969 All 409B (Aug).
- (37) AIR 1937 Mad 22 = 71 Mad LJ 641, Ramaswami Chettiar v. Muthiah Chettiar — Held overruled by AIR 1943 Mad 761 (FB). AIR 1969 Mad 418 (Nov).
- (37) AIR 1937 Mad 342 = (1937) 1 Mad LJ 658, Asan Kutti v. M. Koyamma Kutti — Held no longer good law in view of AIR 1961 SC 186 as interpreted. AIR 1969 Orissa 234 (Sep).
- (37) AIR 1937 Mad 582 = (1937) 1 Mad LJ 667, Palaniappa v. Ramaswami — Held overruled by AIR 1949 Mad 586 (FB) as Interpreted. AIR 1969 Mad 166 (May).
- (1939) AIR 1939 Mad 202 = ILR (1939) Mad 199, Vishwanadham v. M. S. Menon — Over. AIR 1969 SC 1147B (Dec).
- (1940) AIR 1940 Mad 140 = ILR (1940) Mad 306, Shiva Rao v. Shanmugha Sundaraswami — Over. AIR 1969 SC 1147B (Dec).
- (43) AIR 1943 Mad 6 = 44 Cri LJ 176, Kutumbayya v. Lakshminarasimha Rao — Diss. AIR 1969 All 513A (Nov).
- (44) AIR 1944 Mad 437 = (1944) 1 Mad LJ 440, Subramania Chettiar v. Maruthamuthu — Held Rightly Overruled by AIR 1955 Mad 96 (FB) as interpreted. AIR 1969 SC 552B (Jul).
- (45) AIR 1945 Mad 103 = (1945) 1 Mad LJ 4, A Ramamurthy Iyer v. Meenakshi Sundarammal — Diss. AIR 1969 Mys 77 (Mar).
- (48) AIR 1948 Mad 473 = 49 Cri LJ 711, K. Vaiyapusi Goundan v. Kuppuswami — Diss. AIR 1969 Orissa 200 (Aug).
- (50) AIR 1950 Mad 19 = (1949) 1 Mad LJ 286, Umanath v. Pedru Souza — Held Overruled by AIR 1949 Mad 586 (FB) as interpreted. AIR 1969 Mad 166 (May).
- (50) AIR 1950 Mad 394 = 51 Cri LJ 931, Subhama v. Venkata Reddi — Diss. AIR 1969 Delhi 235A (Aug).
- (54) AIR 1954 Mad 185 = 65 Mad LW 191, C. Bapayya v. T. Sitaramamma — Diss. AIR 1969 All 409B (Aug).
- (54) AIR 1954 Mad 203 = (1953) 2 Mad LJ 439, Suryanarayana v. Ganesulu — Diss. AIR 1969 Andh Pra 192 (Jun).
- (55) AIR 1955 Mad 39 = (1955) 27 ITR 164, Ruvula Sabbarao v. Commr. of I.-T. Madras — Over. AIR 1969 SC 1068 (Nov).
- (55) AIR 1955 Mad 288 = (1955) 1 Mad LJ 414, Thavi Chettiar v. Dakshinamurthi Mudaliar — Held impliedly overruled by AIR 1966 SC 470 as interpreted AIR 1969 Mad 81 (Mar).
- (55) AIR 1955 Mad 451 = 1955 Cri LJ 1192, Mr. Richard v. Mrs. Richard — Diss. AIR 1969 Mad 365A (Sep).
- (58) AIR 1958 Mad 403 = 71 Mad LJ 291, Thangia v. Harman Bank Ltd. — Diss. AIR 1969 Pat 184 (Jun).
- (1958) 2 Mad LJ 93 = 1958 Mad WN 351, Chinnamani Nadar v. Devagiribai Rajan — Diss. AIR 1969 Orissa 10A (Jan).
- (1958) C. R. Petns. Nos. 981 and 982 of 1956, D/- 17-1-1958 (Mad) — Revers. AIR 1969 SC 1344A (Dec).
- (1959) 1 Mad LJ 307, Nagutha Mohamed Nainar v. Vadavalli Ammal — Diss. AIR 1969 Ker 75 (Mar).
- (1959) 72 Mad LW 361, Amirthalingam v. Lakshmanaswami — Not F. AIR 1969 Mad 191G (May).
- (60) AIR 1960 Mad 410, Nellie Wapshare v. Pierce Leslie and Co. — Revers. AIR 1969 SC 843A (Oct).

- (1960) 40 ITR 377 = ILR (1960) Mad 1144, V. Ramaswami Iyengar v. Commr. of I. T. — Over. AIR 1969 SC 888B (Oct).
- (61) AIR 1961 Mad 7 = (1961) 1 Mad LJ 16, M. H. Ismail Sahib and Co. v. Regional Director E. S. I. Corporation — Over. AIR 1969 Mad 155A (May).
- (61) AIR 1961 Mad 486 = ILR (1961) Mad 747, Union of India v. R. Akbar Sheriff — Diss. AIR 1969 Punj 441A (Dec) (FB).
- (1961) O. S. A. Nos. 65, 70, 71 of 1956, D/- 28-7-1961 (Mad) — Revers. AIR 1969 SC 1147B (Dec).
- (61) S. A. No. 850 of 1961 (Mad) — Revers. AIR 1969 Mad 401 (Nov).
- (61) W. Ps. Nos. 505 etc. of 1961 (Mad) — Diss. and Held Impliedly Overruled by AIR 1967 SC 1081 as Interpreted. AIR 1969 Mad 104B (Apr).
- (62) AIR 1962 Mad 410 = (1962) 13 STC 686, Dy. Commr. of Commercial Taxes v. Mahohar Bros. — Diss. AIR 1969 Pat 42 (Feb).
- (62) Appeal No. 367 of 1958, D/- 16-3-1962 (Mad) — Revers. AIR 1969 SC 110B (Jan).
- (62) S. A. No. 15 of 1962 (Mad) — Revers. AIR 1969 Mad 96 (Mar).
- (62) W. P. No. 795 of 1962 (Mad) — Diss. and Held Impliedly Overruled by AIR 1967 SC 1081 as Interpreted. AIR 1969 Mad 104B (Apr).
- (62) W. P. No. 815 of 1962 (Mad) — Over. AIR 1969 Mad 87A (Mar).
- (63) AIR 1963 Mad 125 = (1962) 13 STC 680, Dy. Commr. Commercial Taxes v. Parokutti Hajee Sons — Diss. AIR 1969 Pat 42 (Feb).
- (63) AIR 1963 Mad 413 = (1963) 2 Mad LJ 20, Varadarajulu Naidu v. Thawasi Nadar — Over. AIR 1969 SC 493A (Jun).
- (63) AIR 1963 Mad 425 = ILR (1963) Mad 1014, State of Madras v. Anantharaman — Diss. AIR 1969 Punj 441A (FB) (Dec).
- (63) (1963) 2 Lab LJ 60 (Mad), Royal Printing Works v. Industrial Tribunal — Held impliedly overruled by AIR 1963 SC 779 as Interpreted. AIR 1969 Mad 275C (Jul).
- (63) A. S. Nos. 96 and 109 of 1958, D/- 23-1-1963 (Mad) — Revers. AIR 1969 Mad 346 (Sep).
- (64) AIR 1964 Mad 53 = (1963) 2 Mad LJ 162 (FB), Ramaganesan Pillai v. Rajah Ayyar — Held Impliedly overruled by AIR 1966 SC 470 as Interpreted. AIR 1969 Mad 81 (Mar).
- (64) AIR 1964 Mad 183 = ILR (1964) 1 Mad 434, Tanjore Permanent Bank v. G. N. Munniswamy — Diss. AIR 1969 Bom 373C (Nov).
- (64) ILR (1964) 2 Mad 363 = (1964) 2 Mad LJ 563, Sampat Mudaliar v. Sakuntala Ammal — Diss. AIR 1969 Mad 271 (Jul).
- (1964) 2 Mad LJ 70 = 1964 Mad LJ (Cri) 402, Ibrahim v. Saidani Bi — Diss. AIR 1969 Delhi 235A (Aug).
- (1964) 51 ITR 631 (Mad), M. C. Cherian v. Commr. of I. T. — Over. AIR 1969 SC 812A (Sep).
- (64) W. P. No. 1555 of 1964 (Mad) — Diss. and Held Impliedly Overruled by 1967 SC 1081 as Interpreted. AIR 1969 Mad 104B (Apr).
- (65) AIR 1965 Mad 91 = (1965) 1 Mad LJ 248, Mettupalayam Coonoor Service (P) Ltd. v. Niligiri Motor Transport (1947) (P) Ltd. — Over. AIR 1969 Mad 356A (Sep).
- (65) AIR 1965 Mad 292 = (1964) 1 Lab LJ 709, Gandhiban Bus Service v. Presiding Officer, Labour Court — Diss. AIR 1969 Mys 202B (Jun).
- (65) AIR 1965 Mad 328 = ILR (1965) 2 Mad 416, Periathambi Mudaliar v. Spl. Tahsildar (L. A.) Planning Scheme, Coimbatore — Diss. and Held Impliedly Overruled by AIR 1967 SC 1081 as Interpreted. AIR 1969 Mad 104B (Apr).
- (65) A. A. O. No. 1 of 1962, D/- 26-4-1965 (Mad) — Revers. AIR 1969 SC 435 (Jun).
- (66) (1966) 17 STC 396 = ILR (1967) 1 Mad 709, Khader and Co. v. State of Madras — Diss. AIR 1969 Ker 205 (Jul).
- (67) AIR 1967 Mad 77 = 1967 Cri LJ 205, Amirthammal v. K. Marimuthu — Diss. AIR 1969 Delhi 235A (Aug).
- (67) AIR 1967 Mad 100 = (1966) 1 Mad LJ 363 = 1966 Mad WN 146 =

- (1966) 79 Mad LW 284, Viswanathan Pillai v. Shanmugam — Revers. AIR 1969 SC 493A (Jun). 18-4-1968 (SC) as Interpreted. AIR 1969 Punj 121 (Jan).
- (67) AIR 1967 Mad 244 = ILR (1968) 1 Mad 1, S. V. Viswanathan v. Rangaswamy — Diss. AIR 1969 Guj 334 (Nov). (67) Writ Petn. No. 836 of 1966, D/- 7-4-1967 (Mad) — Revers. AIR 1969 SC 147 (Feb).
- (1967) 20 STC 150 = (1967) 2 Mad LJ 552, Larsen and Toubro Ltd. v. Joint Commercial Tax Officer — Held overruled by C. A. No. 763 of 1967, D/- (67) W. P. No. 1984 of 1967 (Mad) — Revers. AIR 1969 Mad 441 (Nov).
- (68) Ele. Petn. No. 11 of 1967, D/- 28-5-1968 (Mad) — Revers. AIR 1969 SC 692C (Aug).
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COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years

Owing to late receipt of other Journals the following *supplement* to comparative tables of A. I. R. = Other Journals is issued

A. I. R. Madras = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
392	AIR 1967 Mad 1968 Serv L R 224	236	AIR 1968 Mad ILR (1969) 1 Mad 416	346	AIR 1968 Mad ILR (1969) 1 Mad 618	390	AIR 1968 Mad ILR (1968) 3 Mad 497
		260	ILR (1969) 1 Mad 168 (1969) 2 M L J 148	366	ILR (1969) 1 Mad 388	394	(1969) 1 Mad L J 458
	AIR 1968 Mad	269	ILR (1969) 1 Mad 358 (1969) 1 Mad 1	383	ILR (1968) 3 Mad 511	436	(1969) 1 Mad L J 49 1969 Mad L J (Cri) 54
218	ILR (1969) 1 Mad 627	274	ILR (1969) 1 Mad 1	387	1969 Serv L R 75 (1969) 2 Lab L J 435		ILR (1969) 1 Mad 18 1969 A C J 34
226	ILR (1969) 1 Mad 523	335	ILR (1968) 3 Mad 737				

A. I. R. 1969 Madras = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [C N 1]		81 [C N 14]		112 [C N 26]		145con	(1968) 2 I T J 636
(FB) ILR (1968) 3 Mad 1		(1968) 2 Mad L J 103		81 Mad L W 334		1968 Mad L J	(Cri) 635
81 Mad L W 345		83 [C N 15]		ILR (1969) 1 Mad 57		1969 Mad L W	(Cri) 157
(1969) 1 Mad L J 1		81 Mad L W 418		(1969) 1 Mad L J 568		71 I T R 163	
5 [C N 2]		(1969) 1 Mad L J 171		118 [C N 27]		ILR (1969) 2	Mad 525
81 Mad L W 190		84 [C N 16]		(1967) 2 Mad L J 438			
10 [C N 3]		81 Mad L W 469		80 Mad L W 507			
(FB) 81 Mad L W 369		(1969) 1 Mad L J 135		118 [C N 28]		155 [C N 36]	
ILR (1968) 3		85 [C N 17]		(1968) 2 Mad L J 140		34 F J R 271	
Mad 377		(1968) 2 Mad L J 307		(1969) 1 Lab L J 93		(1969) 1 Mad L J 17	
14 [C N 4]		1968 Mad L W		1969 Lab I C 429		ILR (1969) 1 Mad 70	
81 Mad L W 350		(Cri) 130		1968 Serv L R 718		1968 Lab I C 549	
15 [C N 5]		1969 Cri L J 394		121 [C N 29]		(1969) 1 Lab L J 586	
81 Mad L W 100		87 [C N 18]		34 F J R 180		166 [C N 37]	
(1968) 1 Mad L J 422		34 F J R 244		(1968) 2 Mad L J 221		(1968) 2 Mad L J 284	
ILR (1968) 2		(1968) 2 Mad L J 318		17 Fac L R 251		81 Mad L W 524	
Mad 298		81 Mad L W 475		81 Mad L W 402		172 [C N 38]	
21 [C N 6]		17 Fac L R 360		(1968) 2 Lab L J 801		(1968) 2 Mad L J 367	
34 F J R 211		(1969) 1 Lab L J 90		1969 Lab I C 121		177 [C N 39]	
(1968) 2 Mad L J 479		1969 Lab I C 279		124 [C N 30]		(1968) 2 Mad L J 321	
17 Fac L R 290		90 [C N 19]		81 Mad L W 460		1968 Mad L W	(Cri) 137
(1969) 1 Lab L J 499		(1968) 2 Mad L J 477		(1969) 1 Mad L J 197		1968 Mad L J	(Cri) 573
27 [C N 7]		81 Mad L W 474		ILR (1969) 1		1969 Cri L J 618	
(1968) 2 Mad L J 105		91 [C N 20]		Mad 758		180 [C N 40]	
33 [C N 8]		21 S T C 489		126 [C N 31]		1969 A C J 435	
(1967) 2 Lab L J 836		93 [C N 21]		---		183 [C N 41]	
33 F J R 356		1968 (2) Mad L J 138		134 [C N 32]		(1968) 2 Mad L J 310	
(1968) 1 Mad L J 458		94 [C N 22]		38 Com Cas 256		187 [C N 42]	
1968 Mad L J		(1968) 2 Mad L J 469		(1968) 1 Com		81 Mad L W 424	
(Ori) 301		1968 Mad L W		L J 152		(1969) 1 Mad L J 193	
ILR (1968) 3		(Cri) 135		33 F J R 301		191 [C N 43]	
Mad 581		1968 Mad L J		68 I T R 279		ILR (1968) 3	Mad 335
1969 Cri L J 206		(Cri) 647		(1968) 1 Mad L J 361		201 [C N 44]	
42 [C N 9]		1969 Cri L J 416		(1968) 1 Lab L J 682		(1968) 2 Mad L J 191	
(1968) 1 Com L J 75		96 [C N 23]		ILR (1968) 3		1968 Mad L J	(Cri) 497
55 [C N 10]		81 Mad L W 281		Mad 655		(1969) 1 Lab L J 351	
ILR (1969) 1		(1968) 2 Mad L J 639		1969 Lab I C 434		1969 Lab I C 678	
Mad 207		ILR (1968) 3		143 [C N 33]		204 [C N 45]	
(1969) 2 Mad L J 251		Mad 395		71 I T R 25		81 Mad L W 413	
66 [C N 11]		104 [C N 24]		(1969) 1 I T J 692		(1969) 1 Mad L J 188	
(1968) 1 Mad L J 19		(1968) 2 Mad L J 174		(1969) 1 Com L J 348			
69 [C N 12]		108 [C N 25]		144 [C N 34]			
70 I T R 240		81 Mad L W 342		81 Mad L W 374			
72 [C N 13]		ILR (1968) 3		145 [C N 35]			
81 Mad L W 257		Mad 638		(1969) 2 Mad L J 451			
(1969) 2 Mad L J 403							

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
208 [C N 46]		280con1968 Mad L J		359con(1969) 1 I T J 618		414con(1969) 1 Mad L J 97	
72 I T R 73		(Cri) 125		(1969) 2 Mad L J 51		1969 Mad L J	
211 [C N 47]		(1968) 1 Mad L J 306		ILR (1969) 2		(Cri) 162	
(1969) 2 Mad L J 297		1969 Cri L J 918		Mad 450		1969 Cri L J 1412	
1968 Mad L J		284 [C N 85]		365 [C N 82]		416 [C N 96]	
(Cri) 572		20 S T C 115		81 Mad L W 613		82 Mad L W 135	
212 [C N 48]		ILR (1968) 2		(1969) 1 Mad L J 519		ILR (1969) 1	
---		Mad 489		370 [C N 83]		Mad 852	
214 [C N 49]		(1969) 1 Mad L J 480		(1968) 2 Lab L J 416		418 [C N 97]	
81 Mad L W 432		300 [C N 86]		34 F J R 462		82 Mad L W 160	
(1969) 1 Mad L J 184		(1968) 2 I T J 610		18 Fac L R 52		(1969) 2 Mad L J 151	
1969 Ren C R 252		70 I T R 860		1969 Lab I C 1310		422 [C N 98]	
ILR (1969) 2		302 [C N 67]		374 [C N 84]		23 S T C 152	
Mad 731		(1968) 2 I T J 420		35 F J R 11		423 [C N 99]	
217 [C N 50]		70 I T R 397		82 Mad L W 15		82 Mad L W 154	
81 Mad L W 483		305 [C N 68]		(1969) 1 Mad L J 147		(1969) 1 Mad L J 605	
(1969) 1 Mad L J 108		(1968) 2 Mad L J 273		(1969) 2 Lab L J 141		426 [C N 100]	
ILR (1969) 1		309 [C N 69]		1969 Lab I C 1314		82 Mad L W 113	
Mad 393		ILR (1968) 3		378 [C N 85]		(1969) 1 Mad L J 440	
223 [C N 51]		Mad 803		1968 Mad L W		428 [C N 101]	
(1969) 2 Mad L J 386		(1969) 1 Mad L J 528		(Cri) 211		82 Mad L W 48	
227 [C N 52]		316 [C N 70]		380 [C N 86]		ILR (1969) 1	
---		81 Mad L W 466		382 [C N 87]		Mad 819	
232 [C N 53]		(1969) 1 Mad L J 133		ILR (1968) 2		434 [C N 102]	
22 S T C 472		1969 A O J 10		Mad 620		---	
(1969) 2 Mad L J 168		317 [C N 71]		81 Mad L W 376		437 [C N 103]	
1969 Mad L J		(1968) 2 Mad L J 490		389 [C N 88]		81 Mad L W 646	
(Cri) 620		81 Mad L W 464		---		(1969) 1 Mad L J 379	
233 [C N 54]		320 [C N 72]		401 [C N 89]		440 [C N 104]	
(1968) 2 Mad L J 528		1968 Mad L W		34 F J R 481		81 Mad L W 629	
1968 Mad L J		(Cri) 142		81 Mad L W 630		35 F J R 5	
(Cri) 695		(1968) 2 Mad L J 532		(1969) 1 Mad L J 102		18 Fac L R 82	
1968 Mad L W		1968 Mad L J		1969 Lab I C 1343		(1969) 2 Lab L J 159	
(Cri) 172		(Cri) 699		(1969) 2 Lab L J 427		1969 Lab I C 1483	
1969 Cri L J 983		1969 Cri L J 1056		405 [C N 90]		441 [C N 105]	
235 [C N 55]		321 [C N 73]		81 Mad L W 609		(1969) 2 Mad L J 574	
81 Mad L W 490		1968 Mad L W		(1969) 1 Mad L J 402		ILR (1969) 2	
(1969) 1 Mad L J 866		(Cri) 155		406 [C N 91]		Mad 637	
248 [C N 56]		(1968) 2 Mad L J 534		35 F J R 18		448 [C N 106]	
81 Mad L W 565		1968 Mad L J		82 Mad L W 3		(1968) 2 Mad L J 395	
(1969) 2 Mad L J 431		(Cri) 701		(1969) 1 Mad L J 170		458 [C N 107]	
ILR (1969) 1		1969 Cri L J 1143		18 Fac L R 149		(1969) 1 Mad L J 201	
Mad 802		322 [C N 74]		(1969) 2 Lab L J 140		ILR (1969) 2	
252 [C N 57]		(1968) 2 I T J 277		1969 Lab I C 1347		Mad 669	
81 Mad L W 561		23 S T C 503		407 [C N 92]		462 [C N 108]	
257 [C N 58]		324 [C N 75]		34 F J R 479		82 Mad L W 179	
ILR (1969) 1		(1968) 2 Mad L J 266		(1969) 1 Mad L J 90		ILR (1969) 1	
Mad 734		81 Mad L W 387		18 Fac L R 144		Mad 433	
265 [C N 59]		329 [C N 76]		(1969) 2 Lab L J 154		(1969) 2 Mad L J 509	
23 S T C 1		81 Mad L W 486		1969 Lab I C 1482		470 [C N 109]	
268 [C N 60]		ILR (1969) 1		408 [C N 93]		82 Mad L W 117	
(1968) 2 Mad L J 634		Mad 459		1969 Mad L W		(1969) 1 Mad L J 427	
81 Mad L W 634		(1970) 1 Mad L J 105		(Cri) 214		473 [C N 110]	
271 [C N 61]		346 [C N 77]		(1969) 1 Mad L J 92		(1969) 1 Mad L J 122	
(1968) 2 Mad L J 610		(1968) 2 Mad L J 493		1969 Mad L J		1969 Ren C R 160	
81 Mad L W 683		ILR (1969) 2 Mad 379		(Cri) 123		477 [C N 111]	
273 [C N 62]		350 [C N 78]		1969 Cri L J 1406		82 Mad L W 36	
35 F J R 7		(1968) 2 Mad L J 865		411 [C N 94]		35 F J R 46	
(1969) 1 Mad L J 119		361 [C N 79]		1968 Mad L W		(1969) 1 Mad L J 409	
18 Fac L R 146		81 Mad L W 555		(Cri) 179		18 Fac L R 212	
1969 Lab I C 824		(1969) 1 Mad L J 638		(1969) 1 Mad L J 37		(1969) 2 Lab L J 161	
(1969) 2 Lab L J 133		ILR (1969) 1		1969 Mad L J		1969 Lab I C 1484	
275 [C N 63]		Mad 603		(Cri) 79		478 [C N 112]	
(1969) 1 Mad L J 32		856 [C N 80]		1969 Cri L J 1410		82 Mad L W 64	
(1969) 1 Lab L J 575		---		414 [C N 95]		(1969) 1 Mad L J 334	
1969 Lab I C 826		359 [C N 81]		1968 Mad L W			
280 [C N 64]		72 I T R 33		(Cri) 210			
1968 Mad L W		39 Com Cas 212					
(Cri) 15		(1969) 1 Com L J 277					

ILR (1968) 2 Mad

ILR (Mad)	AIR
489 1969 Mad 284	
620 " " 382	

ILR (1968) 3 Mad

ILR (Mad)	AIR
335 1969 Mad 191	
377 " " 10	
395 " " 96	
497 1968 " 390	
511 " " 383	
561 1969 " 33	
638 " " 108	
655 " " 134	
737 1968 " 335	
803 1969 " 309	

ILR (1969) 1 Mad

(Jan. to April 1969)

ILR (Mad)	AIR
1 1968 Mad 274	
16 " " 436	
57 1969 " 112	
70 " " 155	
168 1968 " 260	
207 1969 " 55	
358 1968 " 269	
338 " " 366	
393 1969 " 217	
416 1968 " 236	
459 1969 " 462	
459 " " 329	
523 " " 226	
603 " " 351	
618 1968 " 346	
627 " " 218	
641 1970 " 48	
734 1969 " 257	
758 " " 124	
781 " " 5	
802 " " 248	
819 " " 428	
838 " " 416	

ILR (1969) 2 Mad

(May to July 1969)

ILR (Mad)	AIR
379 1969 Mad 346	
450 " " 359	
525 " " 145	

(1967) 2 Mad L J

MLJ	AIR
433 1969 Mad 116	

ILR (1969) 3 Mad(Sep. to Dec. 1969)
(Not received)**(1968) 1 Mad L J**

Mad L J	AIR
19 1969 Mad 56	
306 " " 280	
361 " " 134	
458 " " 33	

(1968) 2 Mad L J

Mad L J	AIR
103 1969 Mad 81	
138 " " 93	
140 " " 118	
174 " " 104	
191 " " 201	
221 " " 121	
266 " " 324	
273 " " 305	
284 " " 166	
297 " " 211	
307 1968 " 85	
310 1969 " 183	
318 " " 81	
321 " " 177	
365 " " 350	
367 " " 172	
395 " " 448	
451 " " 145	
469 " " 94	
477 " " 90	
490 " " 317	
493 " " 346	
497 1970 " 48	
528 1969 " 233	
532 " " 320	
534 " " 321	
610 " " 271	
634 " " 268	
637 " " 441	
639 " " 96	
669 " " 458	
731 " " 214	

(1968) 2 MLJ (SC)

MLJ (SC)	AIR
121 1968 SC 1012	
127 " " 1489	
134 " " 985	

(1969) 1 Mad L J

Mad L J	AIR
1 1969 Mad 1	
17 " " 155	
32 " " 275	
37 " " 411	
49 1968 " 438	
90 1969 " 407	
92 " " 408	
97 " " 414	
102 " " 401	
108 " " 217	
119 " " 273	
122 " " 473	

(1969) 1 Mad L J

MLJ	AIR
133 1969 Mad 316	
135 " " 84	
143 1970 " 34	
147 1969 " 374	
151 1970 " 107	
163 1969 " 10	
168 1970 " 47	
170 1969 " 406	
171 " " 83	
184 " " 214	
188 " " 204	
193 " " 187	
197 " " 124	
201 " " 458	
241 1970 " 76	
261 " " 63	
334 " " 479	
348 " " 119	
366 1969 " 235	
379 " " 437	
393 1970 " 81	
402 1969 " 405	
409 " " 477	
413 1970 " 39	
422 " " 106	
427 1969 " 470	
440 " " 426	
443 1970 " 27	
456 1968 " 394	
480 1969 " 284	
514 1970 " 108	
519 1969 " 365	
528 " " 309	
568 " " 112	
578 1970 " 17	
605 " " 423	
635 " " 7	
638 1969 " 351	

(1969) 1 Mad L J (SC)

Mad L J (SC)	AIR
1 1968 SC 327	
6 " " 1028	
11 " " 1047	
21 " " 1425	
28 1969 " 147	
47 " " 348	
51 1968 " 1138	
83 1969 " 563	
86 " " 493	
90 " " 435	

(1969) 2 Mad L J

MLJ	AIR
51 1969 Mad 359	
58 1970 " 41	
91 " " 5	
93 " " 1	
95 " " 2	
144 " " 25	
148 1968 " 280	
151 1969 " 418	
163 " " 232	
171 1970 " 92	

(1969) 2 Mad L J

Mad L J	AIR
191 1970 Mad 10	
194 " " 103	
198 " " 104	
214 " " 82	
251 1969 " 55	
386 " " 223	
403 " " 72	
421 " " 5	
431 " " 248	
457 1970 " 91	
509 1969 " 462	
574 " " 441	
597 1970 " 113	

(1969) 2 Mad L J (SC)

MLJ	AIR
1 1969 SC 682	
6 " " 740	
9 " " 701	
15 " " 110	
25 " " 569	
28 " " 553	
31 " " 764	
38 " " 530	
50 " " 692	
59 " " 634	
80 " " 843	
90 " " 1068	
95 " " 940	
99 1970 " 14	
105 1969 " 1359	
107 " " 1147	
114 1970 " 66	

1967 Mad L J (Cri)

MLJ (Cri)	AIR
421 1969 Mys 114	

1968 Mad L J (Criminal)

Mad L J (Cri)	AIR
125 1969 Mad 280	
260 " An Pra 47	
301 " Mad 33	
405 " Ker 79	
425 " " 126	
430 " AP 281	
485 " Ker 120	
492 " " 68	
497 " Mad 201	
572 " " 211	
573 " " 177	
599 " Ker 97	
601 " " 188	
635 " Mad 145	
647 " " 94	
662 " Mys 203	
690 " " 1167	

(1968) Mad L J (Cr)

Mad L J (Cri)	AIR
695 1969 Mad 233	
694 " " 320	
701 " " 321	
711 1968 SC 1464	
714 " AP 383	
723 " SC 1438	
730 " " 1273	
733 " " 1275	
743 1969 Mys 95	
757 1968 SC 1270	
780 1969 Mys 160	
793 1968 SC 765	

1969 Mad L J (Criminal)

Mad L J	AIR
1 1968 SC 1393	
3 " " 1390	
7 1969 " 7	
10 1968 " 1517	
15 1969 Ker 250	
19 1969 Mys 221	
25 " " 181	
28 " " 184	
31 1968 SC 1281	
36 " " 1319	
41 " " 1348	
46 1969 " 40	
49 1968 " 1509	
54 " Mad 436	
69 1969 SC 15	
72 1968 " 1422	
75 1969 " 30	
79 " Mad 411	
83 1968 Ker 208	
90 " " 111	
123 1969 Mad 408	
130 1968 SC 1468	
137 1969 " 53	
144 1968 " 1339	
149 " " 1450	
154 " " 1292	
162 1969 Mad 414	
166 " AP 150	
172 1968 SC 1313	
179 " " 1323	
185 " " 1513	
209 1969 " 253	
212 " " 355	
217 1970 Mad 63	
272 1968 Ker 330	
282 1970 " 15	
294 1969 Mys 297	
310 1969 SC 63	
317 1968 AP 381	
321 " SO 1444	
327 " " 1419	
330 1967 " 1214	
344 " " 1494	
358 1970 Mad 39	
362 1969 Mys 277	
388 1968 SC 1402	
395 1969 " 4	
398 " " 43	
404 " " 189	
409 " Ker 146	
440 " AP 415	
442 " SO 401	
447 " " 414	

(1968) Mad L J (Cri)

Mad LJ (Cri)	AIR
456 1969 SC 422	
466 " " 473	
471 " " 381	
476 " " 483	
482 " " 889	
484 " " 886	
488 " " 724	
504 1970 Mys 34	
527 1969 SC 323	
537 " A P 444	
547 " SC 701	
571 " Mys 315	
620 " Mad 232	
636 " SC 1014	
665 " " 1004	
675 " " 1028	
687 " A P 271	
717 " SC 1153	
721 " " 951	
724 1967 " 1335	
734 1969 " 1020	
739 " " 1108	
748 " " 583	
814 " " 956	
852 1970 " 66	
856 " " 27	
860 " " 20	
862 " " 283	
867 " " 7	
871 1969 " 961	

(1967) 80 M L W

MLW	AIR
507 1969 Mad 116	

(1968) 81 M L W

Mad L W	AIR
257 1969 Mad 72	
281 " " 96	
334 " " 112	
342 " " 108	
375 " " 144	
376 " " 382	
387 " " 324	
402 " " 121	
413 " " 204	
418 " " 83	
424 " " 187	
432 " " 214	
436 " " 329	
460 " " 124	
464 " " 317	
466 " " 316	
469 " " 84	
474 " " 90	
475 " " 81	
483 " " 217	
490 " " 235	
524 " " 166	
555 " " 351	
581 " " 252	
585 " " 248	
588 " " 271	
592 1970 " 39	
594 " " 48	
609 1969 " 406	

(1968) 81 Mad L W

Mad LW	AIR
613 1969 Mad 365	
629 " " 440	
630 " " 401	
646 " " 437	

(1969) 82 M L W

MLW	AIR
3 1969 Mad 406	
15 " " 374	
36 " " 477	
48 " " 428	
64 " " 479	
98 1970 " 106	
113 1969 " 426	
117 " " 470	
120 1970 " 107	
122 " " 92	
134 " " 47	
135 1969 " 416	
154 " " 423	
160 " " 418	
170 " " 462	
191 1970 " 37	
221 " " 17	
227 " " 7	
229 " " 1	
283 " " 27	
317 " " 2	
321 " " 5	
323 " " 119	
411 " " 113	
420 " " 10	
422 " " 12	
454 " " 103	
458 " " 104	
459 " " 91	

1968 Mad L W
(Criminal)

Mad L W (Cri)	AIR
15 1969 Mad 280	
65 1968 SC 178	
70 " " 594	
76 " " 609	
79 " " 1	
84 " " 43	
130 " Mad 85	
135 1969 " 94	
137 " " 177	
142 " " 320	
155 " " 321	
167 " " 145	
172 " " 233	
179 " " 411	
188 1968 SC 960	
190 " " 1292	
197 " " 1348	
200 " " 1281	
205 " " 1267	
210 1969 Mad 414	
211 " " 378	
214 " " 408	

1969 Mad L W

(Criminal)

MLW (Cri)	AIR
19 1968 SC 1393	
21 " " 1438	
41 1970 Mad 14	
88 1970 " 25	
117 1970 " 85	

(1967) 37 Com Cas

Com Cas	AIR
686 1969 AP 146	

(1968) 38 ComCas

Com Cas	AIR
256 1969 Mad 134	
801 " AP 390	
928 1968 SC 1196	
932 " " 739	

(1969) 39 Com Cas

Com Cas	AIR
1 1969 Delhi 258	
10 1970 All 108	
47 1968 Pat 289	
114 1969 SC 313	
119 1968 Cal 79	
126 " " 355	
133 1969 SC 297	
137 1970 All 165	
145 1969 Mys 158	
150 " Cal 132	
193 " All 1	
212 " Mad 359	
258 1968 Cal 394	
262 1969 " 363	
309 " " 158	
327 " " 95	
340 1968 Raj 220	
347 " " 331	
395 1968 SC 1504	
410 1969 " 612	
436 " Bom 323	
635 1968 Pat 280	
638 " Punj 292	
650 " Orissa 183	
657 1969 MP 74	
663 1968 Raj 311	
670 " " 214	
735 1969 Bom 194	
741 1968 Cal 572	
760 1969 SC 1058	
781 " " 707	
808 " " 843	
889 " " 1305	
905 1970 " 82	
974 1969 Orissa 91	
990 " " 234	
993 " AP 207	

(1959) 39 Com Cas

Com Cas	AIR
1000 1970 AP 70	
1023 1969 Pat 206	

(1967) 2 Com L J

Com L J	AIR
249 1969 AP 140	

(1968) 1 Com L J

Com L J	AIR
75 1969 Mad 42	
152 " " 134	

(1968) 2 Com L J

Com L J	AIR
151 1969 Bom 194	
155 " Pat 550	
282 " AP 390	
315 " Cal 363	
334 1968 " 394	
344 1969 " 132	
352 1970 All 108	

(1969) 1 Com L J

Com L J	AIR
46 1968 Pat 289	
55 1969 Cal 578	
75 " Pat 188	
83 " " 184	
128 1968 Cal 198	
138 1969 Delhi 258	
240 1968 Pat 445	
258 1970 All 165	
264 1968 Pat 280	
277 1969 Mad 359	
303 " SC 501	
348 " Mad 143	
350 " SC 707	

(1969) 2 Com L J

Com L J	AIR
1 1969 SC 612	
53 1970 Ker 43	
91 1969 Bom 323	
113 " SC 843	
188 " " 932	
196 " " 917	
209 " " 1058	
273 1970 " 82	

(1967) 33 F J R

FJR	AIR
301 1969 Mad 134	
356 " " 33	
440 " Mys 51	

(1968) 34 F J R

FJR	AIR
180 1969 Mad 121	
244 " " 87	
271 " " 155	
462 " " 370	
479 " " 407	
481 " " 401	

(1969) 35 F J R

FJR	AIR
5 1969 Mad 440	
7 " " 273	
11 " " 374	
18 " " 406	
27 " Mys 202	
30 " " 171	
46 " Mad 477	
49 1968 Ker 218	
61 " AP 362	
65 " All 432	
71 " Pat 574	
94 " Punj 574	
106 1969 SC 306	
130 " " 182	
139 " " 235	
145 " Mys 196	
157 " " 510	
162 " SC 530	
181 " " 612	
207 " " 513	
232 " " 590	
246 " Mys 225	
267 " Assam 33	
292 " Cal 95	
305 " Raj 95	
337 " SC 360	
353 " " 276	
372 " Cal 149	
377 " Bom 95	
411 " Mys 300	
427 " Raj 68	
441 1968 SC 1367	
445 1969 Punj 68	

(1969) 36 F J R

FJR	AIR
1 1969 Mys 355	
17 " SC 966	
34 " " 1	
71 1970 Mys 1	
128 1969 SC 80	
177 " " 1335	
191 " " 1306	
216 " All 547	
222 1970 SC 70	
286 " " 196	

(1969) 36 F J R

FJR	AIR	
310 1970	SC	237
324 " "	"	209
327 1969	Punj	441
348 1970	SC	87
357 1969	MP	248

(1969) 1 I T J

ITJ	AIR	
889 1969	SC	496
900 1970	Mad	43

(1968) 70 I T R

ITR	AIR	
240 1969	Mad	69
366 " "	AP	84
397 " "	Mad	302
439 " "	MP	82
831 " "	"	9
843 " "	Punj	8
849 1968	"	476
860 1969	Mad	300

(1969) 72 I T R

ITR	AIR	
664 1968	Ker	262
787 1969	SC	701
796 " "	"	775
801 " "	"	740

(1968) 1 Lab L J

Lab L J	AIR	
682 1969	Mad	134

(1969) 2 I T J

ITJ	AIR	
57 1969	SC	612
143 " "	All	566
273 " "	SC	835
282 " "	"	882
302 " "	"	831
330 " "	"	897
338 " "	"	932
347 " "	"	888
353 " "	"	917
367 " "	"	869
372 " "	"	840
376 " "	"	859
418 " "	"	893
448 " "	"	927
458 " "	"	946
464 " "	"	1058
470 " "	"	1053
478 " "	"	1089
486 " "	"	1241
492 " "	"	944
496 " "	"	1068
509 " "	"	1352
514 " "	"	1062
526 " "	"	1122
544 " "	"	940
565 " "	"	1160
580 " "	"	1262
590 " "	"	1094
598 1970	"	14
623 1969	"	1183
643 1970	"	10
733 1969	AP	345
762 1970	Mad	117
856 1969	Punj	429
873 " "	All	385

(1967) 66 I T R

ITR	AIR	
212 1969	Mys	118
331 " "	AP	140

(1968) 68 I T R

ITR	AIR	
279 1969	Mad	134
849 " "	AP	188

(1968) 69 I T R

ITR	AIR	
170 1969	Assam	103
675 " "	SC	222

(1969) 71 I T R

ITR	AIR	
226 1969	Mad	143
114 " "	Ker	69
163 " "	Mad	145
204 " "	All	390
283 1970	Mad	23
298 1969	SC	209
301 " "	Cal	139
326 1970	"	124
339 1968	"	383
385 1969	Ker	196
417 " "	SC	340
422 " "	"	245
427 " "	"	351
453 " "	"	299
457 " "	"	319
550 " "	Delhi	91
614 " "	Pat	95
624 " "	All	375
678 " "	Ker	227
688 " "	"	238
741 1965	"	210
799 1969	SC	470
806 " "	"	408
816 " "	"	430

(1969) 72 I T R

ITR	AIR	
1 1970	Mad	111
33 1969	"	359
73 " "	"	208
121 " "	Cal	71
197 " "	SC	496
203 " "	"	543
226 " "	Ker	304
242 " "	MP	145
278 " "	Raj	142
286 " "	SC	572
291 " "	"	501
408 " "	"	460
417 " "	MP	72
474 1968	Delhi	124
489 1969	All	566
539 1967	"	131
552 1969	AP	345
572 1970	Ker	36
579 1969	"	252
595 " "	SC	778
603 " "	"	812
612 " "	"	609
617 " "	"	667
623 " "	"	582
630 " "	MP	50
657 " "	"	68

(1969) 73 I T R

ITR	AIR	
44 1968	SC	1504
53 1969	"	612
95 " "	MP	100
119 " "	Orissa	187
150 1968	Assam	68
241 1969	Guj	326
263 " "	MP	220
275 " "	Ker	300
356 1968	"	156
395 1969	Cal	92
402 1966	Raj	154
450 1969	"	310
533 " "	SC	869
539 " "	"	893
546 " "	"	835
626 " "	"	888
634 " "	"	917
652 " "	"	840
685 " "	"	946
692 " "	"	927
698 " "	"	859
702 " "	"	932
727 1968	Cal	253
735 1969	SC	1053
745 " "	"	1058
751 " "	"	940

(1969) 74 I T R

ITR	AIR	
1 1969	SC	1122
7 " "	"	1062
17 " "	"	1160
26 " "	"	1241
33 " "	"	1089
41 " "	"	1068
49 " "	"	1094
57 " "	"	862
62 " "	"	1183
67 " "	"	1352
72 " "	"	1282
183 1970	"	10
190 " "	"	14
200 " "	Mad	117
279 1969	Mys	298
459 1970	SC	118
687 1969	Cal	236
836 1970	SC	292
849 " "	"	388

(1967) 2 Lab L J

Lab L J	AIR	
838 1969	Mad	33
853 " "	Mys	51

(1968) 2 Lab L J

Lab L J	AIR	
16FB 1969	All	414
193 " "	Bom	274
416 " "	Mad	370
450 " "	Mys	248
584 1969	All	422
682 1969	Raj	85
708 1967	All	506
729 1968	Andh	
	Pra	129
744 1969	Bom	95
750 " "	"	310
767 " "	"	58
769 1968	Cal	278
780 1967	J & K	98
792 1968	Madh	
	Pra	204
801 1969	Mad	121
811 1968	Pat	344
830 1967	SC	1910

(1969) 1 Lab L J

Lab L J	AIR	
27 1968	Cal	545
45 1968	"	35
50 " "	"	59
90 1969	Mad	87
93 " "	"	118
97 1968	Mys	156
138 1967	Pat	381
145 1968	"	117
194 1967	Raj	145
201 1968	Ker	193
208 1969	"	288
235 " "	SC	306
242 1968	"	1002
247 1969	All	449
273 1969	Mys	41
290 1967	Cal	461
300 " "	"	29
343 1967	Madh	
	Pra	91
350 1969	Orl	293
351 " "	Mad	201
358 1968	Pat	41
367 1966	Punj	242
373 1968	SC	754
408 " "	Ori	44
436 1967	Pat	369
444 " "	"	160
452 1967	Punj	450
472 " "	"	342
475 1968	Ker	244
483 1965	"	106
499 1969	Mad	21
509 1968	SC	158
513 " "	"	985
520 " "	"	1076
523 " "	"	963
549 " "	"	1292
557 1969	SC	90
567 " "	"	80

(1969) 1 Lab L J			(1969) 2 Lab L J			(1969) 2 Lab L J			(1969) 2 Lab L J			(1969) 23 S T C		
Lab L J	AIR		Lab L J	AIR		Lab L J	AIR		Lab L J	AIR		STC	AIR	
575 1969	Mad	275	25 1966	Mys	225	377 1969	S O	983	791 1970	SC	87	173 1969	S O	348
588 "	"	155	44 1969	Raj	68	387 "	"	992	823 1969	Mys	171	210 "	"	343
607 1967	Madh		67 1968	Guj	202	398 "	"	976				230 "	Mys	309
	Pra	79	78 1967	J & K	37	407 "	"	998				308 "	Madh	
611 1966	"	82	88 1968	Andh		427 "	Mad	401					Pra	53
623 "	"	134		Pra	5	435 1968	"	387	(1967) 20 S T C			314 "	All	518
645 1969	Mys	202	112 1969	Ori	110	442 1969	Mys	196	S T C	AIR		380 "	S O	575
651 1968	"	71	116 "	SC	63	466 "	"	51	115 1969	Mad	284	385 "	"	499
664 1968	Pat	300	133 "	Mad	273	470 1968	All	422				388 "	All	205
679 1967	Punj	279	140 "	Mad	406	477 "	"	75				434 "	Ker	205
708 1969	Madh		141 "	"	374	481 "	"	279	(1968) 21 S T C			449 "	Madh	
	Pra	46	154 "	"	407	485 "	A P	283	S T C	AIR			Pra	213
711 "	"	43	159 "	"	440	493 1969	Assam	1	489 1969	Mad	91	477 "	"	227
713 1969	SC	182	161 "	"	477	524 1968	Delhi	185				503 "	Mad	322
719 "	"	530	163 1968	Mys	206	549 1970	S O	82						
734 "	"	513	171 1966	Mys	267	594 1968	All	276	(1968) 22 S T C					
751 "	"	360	195 1967	Delhi	98	598 1967	"	568	S T C	AIR				
762 "	"	590	202 1969	Ori	209	603 1969	"	11	94FB1969	All	200			
770 "	"	235	209 1968	Andh		607 1968	"	270	376 "	SC	147	(1969) 24 S T C		
775 "	"	276		Pra	362	615 "	Andh		472 "	Mad	232	S T C	AIR	
785 "	"	612	212 1969	Ker	310		Pra	350	552 1970	"	25	1 1969	Madh	
816 1965	Cal	484	247 1967	Punj	76	651 1969	S O	1335					Pra	134
840 1969	Madh		252 "	"	415	662 1970	"	70				44 "	Delhi	1
	Pra	176	254 1965	Punj	303	673 1969	"	1280				50 "	Punj	181
844 1965	"	140	266 1967	Baj	214	682 1968	"	1367				155 "	Madh	
			275 Madh	Pra	200	685 "	"	514					Pra	207
			281 1968	"	177	688 1970	"	245	(1969) 23 S T C			174 "	S O	880
			285 "	"	89	711 "	"	209	S T C	AIR		231 "	"	930
			300 1967	Bom	416	713 "	"	196	1 1969	Mad	265	240 "	Ori	299
(1969) 2 Lab L J			308 1969	Ori	37	728 "	"	237	74 "	Raj	162	252 1970	Mys	11
Lab L J	AIR		318 "	"	41	743 1969	"	966	142 "	Pat	42	343 1969	S O	1276
1 1968	Mys	73	325 "	Ori	61	749 "	"	1306	152 "	Mad	422	349 "	"	1245
14 "	"	296	331 1967	Mys	136	777 1970	"	390	165 1970	All	20	361 "	Mys	295
			345 1966	"	220							481 1970	S O	185

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1969

[Vol. 56]

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MANIPUR JUDICIAL COMMISSIONER'S COURT

1969

JUDICIAL COMMISSIONERS :

The Hon'ble Shri Jagannadhacharyulu, B.A., B.L. (up to 28-4-69).

" R. S. Bindra (From 28-4-69).

GOVERNMENT ADVOCATES:

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• T. Munindra Kumar Singh, B.SC., LL.B. (*Asstt.*)

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NOMINAL TABLE

Abdul Jabar v. Additional Deputy Commissioner, Manipur	(Aug) 63	Laisram Noyon Singh v. Miajan Mia	(Aug) 46
Aribam Keshorjit v. Konjengbam Amu Singh	(Mar) 23	Leitanthem Bidhu Singh v. Khangirakpam Ibobi Singh	(Jan) 3
Bardhan J. N. v. Union Territory of Manipur	(Mar) 30	Longjam Thambalangou Singh v. Huidrom Tollamu Singh	(Mar) 27
Benimadhob Sarma K. v. Madhusudan Sarma	(Mar) 21	Mayengbam Radhamohan Singh v. Chief Commissioner	(Nov) 67
Binode Behari v. Union Territory of Manipur	(May) 47	Naik Brindhavanrai v. Churamani Thapa	(Mar) 29
Government of Manipur v. Thokchom Tomba Singh	(Mar) 22	Narendra Nath Cochar v. Sudershan Sekhar	(Dec) 93
Imphal Sporting Club, Imphal v. All Manipur Sports Association, Imphal	(May) 41	Ngangom Iboton Singh v. Union Territory of Manipur	(Jan) 6
Kangjam Jadhob Singh v. Chongtham Pishak Singh	(Jan) 13	Ngounipu Kabui v. Lungbujei Kabui	(Jan) 8
Khangembam Kokchao Singh v. Haojam Damudor Singh	(Dec) 90	Ningombam Parijat Singh v. Chief Commissioner, Govt. of Manipur	(Nov) 79
Khumukham Chitrasen Singh v. Director of Industries, Manipur	(May) 36	Paokhohen Kuki v. Tongkhohen Kuki	(Aug) 56
Khundrakpam Yaima Singh v. Mayengbam Tomchou Singh	(Jan) 1	Sarungham Bihari Singh v. Union Territory of Manipur	(Nov) 75
Kongkham Chandra Mani Singh v. Kongkhan Sangai Singh	(Jan) 12	Takhellambam Tatu Singh v. Sorkhaibam Jugin Singh	(Aug) 52
Konthoujam Ningol Yumshang Devi v. Bharat Sevak Samaj, Thangal Bazar	(Aug) 58	Tronglaobi Pisciculture Co-operative Society Ltd. v. Chief Commissioner (Administrator) of Manipur	(Dec) 84
Laisangbam Patrik v. Laisangbam Jhulon	(May) 33		

SUBJECT INDEX.

Assam Co-operative Societies Act (1 of 1950)
See under Co-operative Societies.

Central Civil Services (Classification, Control and Appeal) Rules (1957)
See under Civil Services.

Central Civil Services (Classification, Control and Appeal) Rules (1965)
See Civil Services.

Civil Procedure Code (5 of 1908), Pre.—Interpretation of Statutes — Administrative instruction — Instructions not in nature of statutory rules — *See Constitution of India, Art. 226* (May) 47

— **S. 2 (17)**—Officer whose duty is to make any survey of Government property etc. is public officer—*See Evidence Act (1872), S. 74* (Nov) 79B

— **S. 9**—Foot-ball matches —Decisions of referee are final — Not justiciable in Courts (May) 41D

— **S. 9** — Remedy of civil suit under S. 11 (4), Manipur Land Revenue and Land Reforms Act (33 of 1960)— No bar to filing of writ petition — *See Constitution of India, Art. 226* (Dec) 84I

— **S. 11** — Judgment in former suit under S. 9, Specific Relief Act, between the same parties will not act as res judicata in a subsequent title suit between them (Aug) 49C

— **S. 115** — Appreciation of evidence—Interference under S. 115 is not to be made in an order based on appreciation of evidence, in the absence of any material irregularity or illegal exercise of jurisdiction — Finding on an appreciation of evidence adduced by both sides that the plaintiff had not established his claim is not to be interfered with in revision (Mar) 29

— **O. 1, R. 8** — Right to graze cattle on village ground—Property right — Infringement—Writ petition — It may not be one representing the other villages also — *See Constitution of India, Art. 226* (Nov) 79E

— **O. 6, R. 17**—Scope — Amendment introducing new case altogether to the prejudice of other side — Amendment cannot be allowed (May) 33A

— **O. 19, R. 3**—Affidavit in reply—Disputed questions of fact can be traversed—*See Constitution of India, Art. 226* (Mar) 30A

— **O. 21, R. 10** — Execution petition filed within three years of decree — Execution petition is step in aid of execution and saves limitation — Limitation Act (1908), Art. 182 (Jan) 1B

— **O. 21, R. 35** — Decree giving option to decree-holder for possession of land with or without improvements made by judgment-

Civil P. C. (contd.)

debtor—Decree-holder electing to possession without improvements — Executing Court cannot go behind decree and has to get the improvements removed (Jan) 1A

— **O. 21, R. 35**—Formal delivery of possession—Interrupts adverse possession of judgment-debtor and persons claiming through him and deriving title from him. (Aug) 49B

— **O. 39, R. 1**—Applicability — Rule 1 applies to cases of partition of joint properties (Mar) 21A

— **O. 39, R. 1** — Temporary injunction — When issued — Points to be considered by Court (Mar) 21B

— **O. 39, Rr. 1, 2** — Granting of temporary injunction under Rule 1 — Prayer for relief of permanent injunction in suit not necessary (Mar) 21C

— **O. 39, R. 2** — Granting of temporary injunction under R. 1 — Prayer for relief of permanent injunction in suit not necessary — *See Civil P.C. (1908), O. 39, R. 1* (Mar) 21C

CIVIL SERVICES

— **Central Civil Services (Classification, Control and Appeal) Rules (1957), R. 13 (vi)**—Applicability — *See Civil Services—Central Civil Services (Classification, Control and Appeal) Rules (1957), R. 20 (2) (ii)* (May) 36E

— **Rr. 20 (2) (ii), 13 (vi)** — Applicability—Transfer of servant from one department to another—Lien kept in parent department—Transferee department not competent to dismiss him—Procedure indicated (May) 36E

— **Central Civil Services (Classification, Control and Appeal) Rules (1965), R. 20**—Applicability—*See Civil Services—Central Civil Services (Classification, Control and Appeal) Rules (1957), R. 20 (2) (ii)* (May) 36E

— **Fundamental Rules (1956), R. 56**—Fixation of age of retirement under — Amendment of Rule — Government servant wrongly retired under previous order — Effect—Availability of alternative remedy — No bar to writ petition (Nov) 67

— **R. 57**—Granting leave is purely in the discretion of the granting authority — No Government servant is entitled to claim it as a matter of right (May) 36B

— **Government Aided Private School Teachers' (Discipline, Punishment and Appeal) Rules (1959), R. 1**—Petitioner, a teacher of private institution, managed by a Managing Committee—Dismissal of in violation of instructions in the Rules — Domestic tribunal governed by its own rules is not amenable to writ jurisdiction of High Court.—*See Constitution of India, Art. 226* (May) 47

Constitution of India, Art. 19 (1) (f) — Right to graze one's cattle on village grazing ground—Right is a property — *See* Constitution of India, Art. 226 (Nov) 79E

—*Art. 20 (3)*—Identification of Prisoners Act (1920), Ss. 2 (a), 4, 5, 6 — Evidence Act (1872), S. 73—Under Ss. 4 and 5 of the Identification of Prisoners' Act accused can be compelled to give his measurements—His refusal or resistance entitles authorities to use reasonable force to get measurements—Word "measurements" as defined in S. 2 (a) of that Act does not include specimen handwriting and accused cannot be compelled to give specimen under Ss. 4 and 5—However, a Magistrate has power under S. 73 of the Evidence Act to direct an accused to give finger impressions as well as specimen writing—Refusal will entail in prosecution under S. 186, Penal Code—Giving of thumb mark or specimen handwriting does not offend against Art. 20 (3) of the Constitution (Mar) 22

—*Art. 226* — Election of Sarpanch and Sahayak Sarpanch — Two parties — Some Panchas of one party arrested by police just before commencement of meeting for election on false and flimsy grounds to prevent them taking part in election and vote — It was found that other panchas at whose instance they were arrested, played, fraud and made election a simple farce and mockery—Held it was nothing but an abuse of democracy and democratic set up of Nyaya Panchayat and the so called election was a sham and colourable one which must be set aside—*See* Panchayats—U. P. Panchayat Raj Act (26 of 1947) (as extended to Manipur), S. 44 (Jan) 13B

—*Art. 226*—Writ Petition — New point — Point regarding validity of election of Sarpanch and Sahayak Sarpanch after one month of appointment of Panchas of Nyaya Panchayat not raised in Writ Petition—Point raised in affidavit-in-rejoinder — Copies served on respondent's advocate—Held point raised in affidavit-in-rejoinder of which respondent had full notice could be urged (Jan) 13D

—*Arts. 226 and 329* — U. P. Panchayat Raj Act (26 of 1947) (as extended to Manipur), Ss. 12 (c) and 44—U. P. Panchayat Raj Rules (1947), Rr. 147, 79 — Election of Sarpanch and Sahayak Sarpanch — Remedy to aggrieved party available under Rules — On facts and circumstances writ petition held maintainable (Jan) 13E

—*Art. 226*—Affidavit in reply by petitioner — Disputed questions of fact cannot be traversed (Mar) 30A

—*Art. 226* — Mandamus — When can be granted — *See* Eastern Bengal and Assam Excise Act (1 of 1910), S. 12 (Mar) 30C

Constitution of India (contd.)

—*Art. 226*—Natural justice—Departmental inquiry — Rules to be observed by tribunal — *See* Constitution of India, Art. 311 (May) 36A

—*Arts. 226 and 311* — Departmental enquiry—Jurisdiction of High Court — Appreciation of evidence (May) 36C

—*Arts. 226 and 311*—Domestic Tribunal—Appointment of enquiring officer — Officer orally hearing parties and giving findings without recording any evidence — Government setting aside his report and appointing another officer unconnected with the office of it delinquent servant—Findings accepted — Order of Government held was within its powers and no mala fides could be attributed (May) 36D

—*Art. 226*—Domestic tribunal — Meaning of statutory and non-statutory tribunals — Distinction between — Writ of certiorari does not lie against non-statutory tribunal (May) 41A

—*Art. 226*—Statutory domestic tribunals—Certiorari will lie to quasi-judicial tribunals and not to administrative ones — Requisites of quasi-judicial bodies (May) 41B

—*Art. 226* — Societies Registration Act (1860), S. 3—All Manipur Sports Association registered under the Act — Association purely domestic tribunal — Certiorari does not lie against it (May) 41C

—*Art. 226* — Writ against educational authorities—Domestic tribunal—Petitioner teacher of a private institution, managed by a Managing Committee—Dismissal of petitioner in violation of instructions contained in Government Aided Private School Teachers (Discipline, Punishment and Appeal) Rules (1959)—Instructions not in the nature of statutory rules — Institution being private one was a domestic tribunal — Domestic tribunal governed by its own rules is not amenable to writ jurisdiction of High Court — Institution taken over by Government — No resolution or contract under which petitioner's liabilities were also taken over — Writ against Government and its officials held also not maintainable (May) 47

—*Art. 226* — Natural justice — Appellate authority issuing notice to parties—Parties not contesting—Opportunity consistent with natural justice held, was given — *See* Motor Vehicles Rules (Manipur 1951), R. 65 (Aug) 58A

—*Art. 226* — Appeal irregularly filed and entertained — No objection taken — Court acting in public interest — No interference under Art. 226 of Constitution — *See* Motor Vehicles Rules (Manipur) (1951), R. 83 (Aug) 58F

Constitution of India (contd.)

—*Art. 226*—Delay — Unexplained delay is fatal (Aug) 63C

—*Art. 226*—Parties — Necessary parties—Non-joinder—Petition liable to be dismissed (Aug) 63D

—*Art. 226*—Government servant wrongly retired under R. 56 of Fundamental Rules—Delay in filing writ — Alternative remedy available — Effect — See Civil Services — Fundamental Rules (1956), R. 56 (Nov) 67

—*Art. 226*—Permit granted to applicant — High Court cannot examine for itself correctness of reasons—See Motor Vehicles Act (1939), S. 55 (Nov) 75C

—*Art. 226*—Alternative remedy — Not always a bar to the exercise of writ jurisdiction — Revision petition under S. 95 of Manipur Act 33 of 1960 wrongly refused to be considered — Writ petition, held, could be filed challenging the order (Nov) 79C

—*Arts. 226 and 19 (1) (f)* — Right to graze one's cattle on village grazing ground—Right is a property under Art. 19 (1) (f)—Infringement of, could be dealt with by a writ—Petitioner need not represent other villagers (Nov) 79E

—*Art. 226*—Executive instructions—Violation or disobedience of — No writ lies against (Nov) 79F

—*Art. 226* — Writ challenging order of Settlement Officer — Documents filed along with the reply affidavit could be relied upon — Fact that those were not relied on before the officer could not bar their being considered — Disputed questions of fact have to be decided on basis of affidavits—Plea taken in the affidavit in rejoinder could also be considered (Dec) 84C

—*Art. 226*—Petition by society represented by named chairman—Maintainable—See Co-operative Societies—Assam Co-operative Societies Act (1 of 1950), S. 85 (Dec) 84G

—*Art. 226* — Existence of other remedy is not always a bar to exercise of writ jurisdiction (Dec) 84I

—*Art. 226* — Existence of legal right and its infringement is basis for exercise of writ jurisdiction—Orders of tribunals disturbed by Judicial Commissioner's Court in exercise of extraordinary jurisdiction and not sitting as an appellate authority — Passages at Pages 2882, 2884, 2885, 2892 and 2903 in Vol III of AIR Manual 2nd Edn. (Dec) 84J

—*Art. 309* — Government servant wrongly retired under R. 56 of Fundamental Rules — Effect — See Civil Services — Fundamental Rules (1956), R. 56 (Nov) 67

—*Arts. 311 and 226*—Departmental enquiry — Natural justice—Rules to be observed by by tribunal (May) 36A

Constitution of India (contd.)

—*Art. 311*—Departmental inquiry—Appreciation of evidence — Jurisdiction of High Court as to — See Constitution of India, Art. 226 May 36C

—*Art. 311*—Domestic tribunal—Appointment of enquiry officer—See Constitution of India, Art. 226 May 36D

—*Art. 311*—Transfer of servant from one department to another—Lien kept in parent department — Transferee department not competent to dismiss him — See Civil Services—Central Civil Services (Classification, Control and Appeal) Rules (1957), R. 20 (2) (ii) (May) 36E

—*Art. 329* — Election of Sarpanch and Sahayak Sarpanch — Remedy to aggrieved party available under Rules — On facts and circumstances writ petition held maintainable—See Constitution of India, Art. 226 (Jan) 13E

CO-OPERATIVE SOCIETIES

— Assam Co-operative Societies Act (1 of 1950), S. 85—Writ petition by a society said to be represented by the named Chairman is maintainable (Dec) 84G

Criminal Procedure Code (5 of 1898), Ss. 4 (1) (h) and 200

—Complaint filed by two persons jointly—Magistrate taking it on file by treating it as filed by one person only — Held procedure adopted by Magistrate could not be said to be irregular (Aug) 56A

—*Ss. 4 (1) (h) and 200*—Complaint—Joint complaint by two or more if permissible — S. 4 (1) (h) is silent on this — Madras, Calcutta and Kerala High Courts hold that joint complaint is not permissible — Oudh Chief Court's contrary view appears to be substantial (Obiter) Aug 56B

—*S. 107*—Procedure—Summoning parties to ascertain facts and circumstances is illegal (Jan) 12A

—*S. 107* — Proceedings — No danger of breach of peace — Magistrate can drop proceedings — Possession of land given by Court — Party given possession entitled to protection — Magistrate needing proof of confirmation of possession should call for it and should not drop proceedings (Jan) 12B

—*Ss. 107 and 145* — Petition under S. 107 made by Pradhan representing all other villagers — Order of S. D. M. under S. 145, not vitiated by non-joinder of all the villagers (Aug) 52C

—*S. 107*—"Is informed" — No restriction as to source of information — Action on basis of police report and complaint petition — Action, held, not incompetent (Dec) 90A

—*Ss. 107, 112 and Proviso to 114*—On facts, held, order passed under the above provisions was proper (Dec) 90B

Criminal P. C. (contd.)

—S. 112—On facts held, order passed under provisions of Ss. 112, 107 and proviso to S. 114 was proper—See Criminal P. C. (1898), S. 107 (Dec) 90B

—S. 112—Composite order—Appending of order under S. 117 (3) to order under S. 112 held illegal—See Criminal P. C. (1898), S. 117 (3) (Dec) 90C

—S. 112—Order under—Subsequent order under S. 117 (3) on same evidence held not bad—See Criminal P. C. (1898), S. 117 (3) (Dec) 90D

—S. 114, Proviso—On facts held order passed under provisions of Ss. 114, Proviso, 107 and 112 was proper—See Criminal P. C. (1898), S. 107 (Dec) 90B

—S. 114—Composite order—Appending of order under S. 117 (3) to order under S. 112 held illegal—Impugned position of order held could be construed as one under S. 114 but it would be redundant—See Criminal P. C. (1898), S. 117 (3) (Dec) 90C

—Ss. 117 (3), 112 and 114—Composite order—Appending of an order under S. 117 (3) to an order under S. 112, held, illegal (Dec) 90C

—Ss. 117 (3) and 112—Magistrate passing an order under S. 112—Subsequently, emergency compelling him to make an order under S. 117 (3)—Order under S. 117 (3) not bad for being on the same information and evidence as the order under S. 112 (Dec) 90D

—S. 117 (3)—Illegal order under S. 117 (3) with consequential order under S. 514—One revision against composite order maintainable—See Criminal P. C. (1898), S. 435 (Dec) 90E

—S. 117 (3)—Order under to be with reasons in writing (Dec) 90F

—Ss. 145, 510A, 539, 539A and 539AA—Oaths Act (1873), S. 4—In order that affidavit should be valid evidence in proceeding under S. 145, it may be sworn before any Magistrate who is otherwise competent to administer oath under S. 4 of Oaths Act and receive evidence—Words 'having authority to receive evidence' in S. 4 cannot be restricted to authority of Court to receive evidence in any particular case to which evidence relates but can be extended to receive evidence in any case (Jan) 3

—S. 145—In passing order under S. 145 Magistrate is not bound by report of police—He has to make his own judicial enquiry (Mar) 27

—Ss. 145 and 148—Final order under S. 145 including property not included in preliminary order—Order liable to be set aside—S. D. M. should conduct local en-

Criminal P. C. (contd.)

quiry to identify actual land in dispute (Aug) 52A

—S. 145—Pradhan representing all villagers, petitioning under S. 107—Order of S. D. M. need not join each villager as party—See Criminal P. C. (1898), S. 107 (Aug) 52C

—Ss. 145 (4) and 423—Mandatory requirements of S. 145 (4) not complied with—High Court can exercise powers under S. 423 to correct illegality (Aug) 52B

—S. 148—Final order included property not shown in preliminary order—Final order set aside—See Criminal P. C. (1898), S. 145 (Aug) 52A

—S. 200—Joint complaint by two—Magistrate treating it as by one—Magistrates procedure not irregular—See Criminal P. C. (1898), S. 4 (1) (h) (Aug) 56A

—S. 200—Maintainability of joint complaint—Conflict of judicial opinion—See Criminal P. C. (1898), S. 4 (1) (h) (Aug) 56B

—Ss. 256 (1) and 540—Examination of remaining witnesses—"Any remaining witnesses"—Meaning—Examination of new witnesses not mentioned in complaint petition—Admissibility (Jan) 8

—S. 423—Mandatory requirements under S. 145 not observed—High Court can correct illegality—See Criminal P. C. (1898), S. 145 (4) (Aug) 52B

—Ss. 435, 438, 117 (3) and 514—Composite order of Magistrate—Illegal order under S. 117 (3) with consequential order under S. 514—One revision petition challenging the composite order maintainable (Dec) 90E

—S. 438—Composite order—Illegal order under S. 117 (3) with consequential order under S. 514—One revision petition against composite order maintainable—See Criminal P. C. (1898), S. 435 (Dec) 90E

—S. 497—Grant of bail—Principles—See Criminal P. C. (1898), S. 498 (Jan) 6

—Ss. 498 and 497—Grant of bail—Principles (Jan) 6

—S. 510A—Applies to all formal affidavits filed in any inquiry or trial or other proceeding under the Code—See Criminal P. C. (1898), S. 145 (Jan) 3

—S. 514—Illegal order under S. 117 (3) with consequential order under S. 514—One revision against composite order maintainable—See Criminal P. C. (1898), S. 435 (Dec) 90F

—S. 539—Affidavits—Manner of swearing or affirming—Section applies only to affidavits filed in the High Court—See Criminal P. C. (1898), S. 145 (Jan) 3

—S. 539A—Affidavits to be used under the section—May be sworn or affirmed either in manner prescribed under S. 539 or before

Criminal P. C. (contd.)

any Magistrate. — See Criminal P. C. (1898), S. 145 (Jan) 3

— S. 539AA—Section governs filing of affidavits in Courts other than the High Court — See Criminal P. C. (1898), S. 145 (Jan) 3

— S. 540—New witnesses whose names have not been mentioned in complaint petition can be examined under S. 540—See Criminal P. C. (1898), S. 256 (1) (Jan) 8

Deed—Construction—Recitals as to area and boundaries—See T. P. Act (1882), S. 8

Eastern Bengal and Assam Excise Act (1 of 1910), S. 9 (4)—Cancellation of licence to sell potable foreign liquor granted by Excise Collector — Cancellation by Finance Secretary—Order is illegal — See Eastern Bengal and Assam Excise Act (1 of 1910), S. 32 (Mar) 30B

— Ss. 29, 9 (4).—Licence to sell potable foreign liquor granted by Excise Collector (Deputy Commissioner) to proprietor of restaurant — Cancellation of licence by Finance Secretary—Order is illegal—Board has also no authority suo motu to cancel licence (Mar) 30B

— S. 32—Licence to sell potable foreign liquor to proprietor of restaurant — Breach of some of the conditions by licence — Proprietor of restaurant held not entitled to claim as a matter of right renewal of his licence—This is a matter purely in the discretion of Chief Commissioner — Court cannot compel him to exercise discretion in favour of licensee (Mar) 30C

Evidence Act (1 of 1872), S. 23—Admission by counsel of party made without prejudice to his contention does not bind the party—An incorrect admission on a question of law also does not bind the party (Mar) 23B

— S. 35—Entry in Dag Chitha maintained under Manipur Law Revenue and Law Reforms Rules—Public document—Evidentiary value—See Evidence Act (1872), S. 74 (Nov) 79B

— Ss. 35 and 74—Record of rights—Entries in — Admissible even though the record is not finally published (Dec) 84B

— S. 73—Word “measurements” as defined in S. 2 (a) of Identification of Prisoners Act does not include specimen handwriting and accused cannot be compelled to give specimen under Ss. 4 and 5 of that Act—However, a Magistrate has power under S. 73 of the Evidence Act to direct an accused to give finger impressions as well as specimen writing — Refusal will entail in prosecution under S. 186, Penal Code—Giving of thumb mark or specimen handwriting does not offend against Art. 20 (3) of Constitution—See Constitution of India, Art. 20(3) (Mar) 22

Evidence Act (contd.)

— Ss. 74 and 35 — Entry in Dag chitha maintained under Manipur Land Revenue and Land Reforms Act is a public document and is admissible in evidence — Fact that the survey is still going on, may only affect its evidentiary value (Nov) 79B

— S. 74—Record of rights—Entries in—Admissible though record not finally published — See Evidence Act (1872), S. 35 (Dec) 84B

— S. 115—On facts, held, estoppel did not operate (Dec) 84H

Fundamental Rules

See under Civil Services.

Government Aided Private School Teachers (Discipline, Punishment and Appeal) Rules (1959)

See under Civil Services.

Hindu Law—Dayabhaga School—Father — Alienation — Father has absolute power to dispose of not only his own properties but also even his ancestral properties during his life time (May) 33B

Hindu Marriage Act (25 of 1955), S. 3 (b)—In Manipur territory expression “District Court” in S. 3 (b) includes a Court of Additional District Judge—See Hindu Marriage Act (1955), S. 19 (Dec) 93

— Ss. 19, 3 (b) — In Manipur territory expression “District Court” in S. 3 (b) includes a Court of Additional District Judge (Dec) 93

Identification of Prisoners Act (33 of 1920), S. 2 (a)—Under Ss. 4 and 5 of Identification of Prisoners Act accused can be compelled to give his measurements—His refusal or resistance entitles authorities to use reasonable force to get measurements — Word “measurements” as defined in S. 2 (a) of that Act does not include specimen handwriting and accused cannot be compelled to give specimen under Ss. 4 and 6—See Constitution of India, Art. 20 (3) (Mar) 22

— S. 4—Under Ss. 4 and 5 of Identification of Prisoners Act accused can be compelled to give his measurements—His refusal or resistance entitles authorities to use reasonable force to get measurements — Word “measurements” as defined in S. 2 (a) of that Act does not include specimen handwriting and accused cannot be compelled to give specimen under Ss. 4 and 6 — See Constitution of India, Art. 20 (3) (Mar) 22

— S. 5—Under Ss. 4 and 5 of Identification of Prisoners Act accused can be compelled to give his measurements—His refusal or resistance entitles authorities to use reasonable force to get measurements — Word “measurements” as defined in S. 2 (a) of that Act does not include specimen hand-

Identification of Prisoners Act (contd.)

writing and accused cannot be compelled to give specimen under Ss. 4 and 6 — See Constitution of India, Art. 20 (3) (Mar) 72

—S. 6—Under Ss. 4 and 5 of Identification of Prisoners Act accused can be compelled to give his measurements—His refusal or resistance entitles authorities to use reasonable force to get measurements — Word “measurements” as defined in S. 2 (a) of that Act does not include specimen handwriting and accused cannot be compelled to give specimen under Ss. 4 and 6—See Constitution of India, Art. 20 (3) (Mar) 22

Limitation Act (9 of 1908), S. 5 — No time fixed for filing revision under Central Act (33 of 1960)—Delay — Condonation — See Tenancy Laws—Manipur Land Revenue and Land Reforms Act (Central Act 33 of 1960), S. 95 (Nov) 79A

—Art. 142—Formal delivery of possession interrupts adverse possession — See Civil P. C. (1908), O. 21, R. 35 (Aug) 49B

—Art. 144—Formal delivery of possession interrupts adverse possession — See Civil P. C. (1908), O. 21, R. 35 (Aug) 49B

—Art. 182—Execution petition filed within three years of decree—Execution petition is step in aid of execution and saves limitation—See Civil P. C. (1908), O. 21, R. 10 (Jan) 1B

Manipur (Courts) Act (56 of 1955), S. 2 (iii) — In Manipur territory expression “District Court” in S. 3 (b) of the Hindu Marriage Act includes a Court of Additional District Judge — See Hindu Marriage Act (1955), S. 19 (Dec) 93

—S. 16—In Manipur territory expression “District Court” in S. 3 (b) of the Hindu Marriage Act includes a Court of Additional District Judge — See Hindu Marriage Act (1955), S. 19 (Dec) 93

—S. 17—In Manipur territory expression “District Court” in S. 3 (b) of the Hindu Marriage Act includes a Court of Additional District Judge — See Hindu Marriage Act (1955), S. 19 (Dec) 93

—S. 18—In Manipur territory expression “District Court” in S. 3 (b) of the Hindu Marriage Act includes a Court of Additional District Judge — See Hindu Marriage Act (1955), S. 19 (Dec) 93

—S. 20—In Manipur territory expression “District Court” in S. 3 (b) of the Hindu Marriage Act includes a Court of Additional District Judge — See Hindu Marriage Act (1955), S. 19 (Dec) 93

Manipur Land Revenue and Land Reforms Act (33 of 1960)

See under Tenancy Laws

Manipur Land Revenue and Land Reforms (Allotment of Land) Rules (1962)

See under Tenancy Laws

Manipur Land Revenue and Land Reforms Rules (1961)

See under Tenancy Laws

Motor Vehicles Act (4 of 1939), S. 47 — Appeal irregularly filed and entertained — No objection taken — Court acting in public interest — No interference under Art. 226 of Constitution — See Motor Vehicles Rules (Manipur) (1951), R. 83 (Aug) 58F

—Ss. 48 (1), Proviso, 64 (a), (f) (i), 57—State Transport Authority granting stage carriage permit for a route to person who had not applied for it — Order is illegal — Same person applying for permit on another route — Application rejected — He is a person aggrieved and his case falls under S. 64 (a) — His case does not fall under S. 64 (i), provisions of which are general, and since there is no order “prescribed” by rules within meaning of S. 2 (21) — His case also falls under S. 64 (1) since his application must be considered as an objection within meaning of S. 57 (Aug) 58A

—Ss. 55 and 57—Other things being equal, applicant ‘A’ with vehicle of later model preferred — Merits and demerits of all applications discussed — Order granting permit to ‘A’ held, could not be set aside — High Court not to examine for itself correctness of reasons in writ petitions (Nov) 75C

—S. 57 — Applicant’s request for permit rejected—Permit granted to another—Applicant’s application deemed as objection to application of another — See Motor Vehicles Act (1939), S. 48 (1), Proviso (Aug) 58A

—S. 57—Applicant with vehicle of later model preferred—Merits and demerits of all applications discussed — Order is not bad — See Motor Vehicles Act (1939), S. 55 (Nov) 75C

—S. 57 (3)—Publication of application sufficient if their substance is published (Nov) 75A

—Ss. 57 (3) (4) and (5) and 64 — Applicant is entitled to be heard whether he had or had not filed any objection against his rival claimant (Nov) 75B

—S. 58 (2), Proviso 2 — Proviso applies only where other conditions are equal—Applicant already running stage carriage on particular route but having old model buses considered unsafe — He is not entitled to preference over other applicants having new model buses, only because he was already running on the route (Aug) 58D

—S. 61—All points which were to be considered by the State Transport Authority are at large for consideration by the Chief Com-

Motor Vehicles Act (contd.)

missioner on merits and demerits of the respective cases of the appellants—Scope of appeal and scope of the powers of the appellate authority are nowhere restricted by the Act itself (Aug) 58B

—S. 64—Appeal by A against refusal to grant him permit to run stage carriage on a particular route—No prayer for cancellation of permit granted to B on same route—B made party to appeal—Matter being at large in the appeal, the appellate authority was entitled to cancel the permit granted to B and direct the State Transport Authority to call for applications afresh and consider them (Aug) 58C

—S. 64—Appellate authority issuing notice to parties—Parties not contesting—Opportunity consistent with natural justice held, was given—See Motor Vehicles Rules (Manipur) (1951), R. 65 (Aug) 58E

—S. 64—Appeal irregularly filed and entertained—No objection taken—Court acting in public interest—No interference under Art. 226 of Constitution—See Motor Vehicles Rules (Manipur) (1951), R. 83 (Aug) 53F

—S. 64—Scope—See Motor Vehicles Act (1939), S. 57 (3) (Nov) 75B

—S. 64 (a), (f), (i)—Application for stage carriage permit rejected—Case falls under S. 64 (f), 64 (a) and not under S. 64 (i)—See Motor Vehicles Act (1939), S. 48 (1), Proviso (Aug) 58A

Motor Vehicles Rules (Manipur) 1951—Rules mandatory—See Motor Vehicles Act (1939), S. 48 (1), Proviso (Aug) 58A

—R. 65—Appellate Authority sending notices to parties—Party not contesting matters—He cannot afterwards complain that he was not given opportunity to contest the appeal (Aug) 58E

—R. 83—Rule is mandatory—Appeal under S. 64 of Act irregularly filed and entertained—No objection taken before appellate authority—Appellate authority acting correctly guided by public interest generally—High Court will not interfere under Art. 226 matters being related to procedure not going to the root of the jurisdiction of the appellate authority (Aug) 58F

Negotiable Instruments Act (26 of 1881), S. 4—Document reciting borrowing of money mortgaging certain land and also promise to repay loan within certain period—Document held not a promissory note but a simple mortgage—See Stamp Act (1899), S. 2 (22) (Mar) 23A

Oaths Act (10 of 1873), S. 4—In order that affidavit should be valid evidence in proceeding under S. 145, Criminal P. C., it may be sworn in before any Magistrate who is otherwise competent to administer oath

Oaths Act (contd.)

under S. 4 and receive evidence—See Criminal P. C. (1898), S. 145 (Jan) 3

PANCHAYATS

—**U. P. Panchayat Raj Act (26 of 1947) (as extended to Manipur), S. 12 (c)**—Election of Sarpanch and Sahayak Sarpanch—Remedy to aggrieved party available under Rules—On facts and circumstances writ petition held maintainable—See Constitution of India, Art. 226 (Jan) 13E

—S. 44 (as extended to Manipur)—U. P. Panchayat Raj Rules (1947), R. 146 (1)—Word “shall” used in R. 146 (1), interpretation of—“Shall” is mandatory and in context of S. 44 of the Act it means “must”—Proviso to S. 44 lays down penal consequences if Sarpanch and Sahayak Sarpanch are not elected within prescribed period, in which case the prescribed authority “may” appoint Sarpanch or Sahayak Sarpanch—Hence election of Sarpanch and Sahayak Sarpanch held beyond period of one month from date of appointment of Panchas is illegal and contrary to provisions of S. 44 and R. 146 (1) (Jan) 13A

—S. 44 (as extended to Manipur)—U. P. Panchayat Raj Rules (1947), R. 146 (2)—Election of Sarpanch and Sahayak Sarpanch—Two parties—Some panchas of one party arrested by police just before commencement of meeting for election on false and flimsy grounds to prevent them from taking part in election and vote—It was found that other panchas at whose instance they were arrested, played fraud and made election a simple farce and mockery. Held it was nothing but an abuse of democracy and democratic set up of Nyaya Panchayat and the so-called election was a sham and a colourable one which must be set aside—Constitution of India, Art. 226 (Jan) 13B

—S. 44 (as extended to Manipur)—U. P. Panchayat Rules (1947), R. 146 (4)—Election of Sarpanch and Sahayak Sarpanch—Quorum—Total number of members 15—Three members arrested just before commencement of meeting for election—Five members on rejection of their application to adjourn meeting due to illegal arrest, leaving meeting without signing list of voters present—Election conducted subsequently held contravened provisions of sub-r. (4) of R. 146 as there were only 7 members while the quorum required for meeting was ‘eight’ the strength of Nyaya Panchayat being 15 (Jan) 13C

—S. 44 (as extended to Manipur)—Election of Sarpanch and Sahayak Sarpanch—Remedy to aggrieved party available under Rules—On facts and circumstances writ petition

Panchayats — U. P. Panchayats Raj Act
(*contd.*)

Held maintainable — *See* Constitution of India, Art. 226 (Jan) 13E

—U. P. Panchayat Raj Rules (1947), R. 79—

Election of Sarpanch and Sahayak Sarpanch — Remedy to aggrieved party available under Rules — On facts and circumstances writ petition held maintainable — *See* Constitution of India, Art. 226 (Jan) 13E

—*R. 146 (1)*—Word “shall” is mandatory and in context of S. 44 of the Act it means “must”—Proviso to S. 44 lays down penal consequences if Sarpanch and Sahayak Sarpanch are not elected within prescribed period, in which case the prescribed authority “may” appoint Sarpanch or Sahayak Sarpanch — Hence, election of Sarpanch and Sahayak Sarpanch held beyond period of one month from date of appointment of panchas is illegal and contrary to provisions of S. 44 and R. 146 (1)—*See* Panchayats—U. P. Panchayat Raj Act (26 of 1947) (as extended to Manipur), S. 44 (Jan) 13A

—*R. 146 (1)*—Writ petition — New point — Point regarding validity of election of Sarpanch and Sahayak Sarpanch after one month of appointment of panchas of Nyaya panchayat not raised in writ petition—Point raised in affidavit in rejoinder—Copies served on respondents’ advocates—Held point raised in affidavit-in-rejoinder of which respondent had full notice could be urged—*See* Constitution of India, Art. 226 (Jan) 13D

—*R. 146 (2)* — Election of Sarpanch and Sahayak Sarpanch — Two parties — Some Panchas of one party arrested by police just before commencement of meeting for election on false and flimsy grounds to prevent them from taking part in election and vote — It was found that other panchas at whose instance they were arrested, played fraud and made election a simple farce and mockery—Held it was nothing but an abuse of democracy and democratic setup of Nyaya Panchayat and the so-called election was a sham and a colourable one which must be set aside—*See* Panchayats—U. P. Panchayat Raj Act (26 of 1947) (as extended to Manipur), S. 44 (Jan) 13B

—*R. 146 (4)*—Election of Sarpanch and Sahayak Sarpanch—Quorum—Total number of members 15—Three members arrested just before commencement of meeting for election—Five members on rejection of their application to adjourn meeting due to illegal arrest, leaving meeting without signing list of voters present—Election conducted subsequently held contravened provisions of sub-r. (4) of R. 146 as there were only 7 members while the quorum required for meeting was ‘eight’ the strength of Nyaya

Panchayats — U. P. Panchayat Raj Rules
(*contd.*)

Panchayat being 15—*See* U. P. Panchayat Raj Act (26 of 1947) (as extended to Manipur), S. 44 (Jan) 13C

—*R. 147*—Election of Sarpanch and Sahayak Sarpanch—Remedy to aggrieved party available under Rules — On facts and circumstances writ petition held maintainable—*See* Constitution of India, Art. 226 (Jan) 13E

Penal Code (45 of 1860), S. 302—Charge under —Grant of bail—Principles — *See* Criminal P. C. (1898), S. 498 (Jan) 6

—*S. 304* — Charge under — Grant of bail — Principles — *See* Criminal P. C. (1898), S. 498 (Jan) 6

—*S. 307*—Charge under — Grant of bail—Principles—*See* Criminal P. C. (1898), S. 498 (Jan) 6

—*S. 441* — Criminal trespass — Accused trespassing into land with intention to oust complainant forcibly and by intimidation—Absence of bona fides on part of accused—Held it was a clear case of trespass (Aug) 56C

Registration Act (16 of 1908), S. 49 — Document reciting borrowing of money mortgaging certain land and also promise to repay loan—Document was a simple mortgage—It can be admitted in evidence by paying stamp duty and penalty — It can be relied on as evidence of money debt though not as simple mortgage—*See* Stamp Act (1899), S. 2 (22) (Mar) 23A

Societies Registration Act (21 of 1860), S. 3—All Manipur Sports Association registered under the Act—Association is purely domestic tribunal—*See* Constitution of India, Art. 226 (May) 41C

Specific Relief Act (1 of 1877), S. 9—Judgment in former suit for specific performance —Does not act as res judicata—*See* Civil P. C. (1908), S. 11 (Aug) 49C

Stamp Act (2 of 1899)

See under Stamp Duty

STAMP DUTY

—**Stamp Act (2 of 1899), Ss. 2 (22), 35 and 60 (as applied to Manipur State)—Negotiable Instruments Act (1881), S. 4—“Promissory note”—Document reciting borrowing of money mortgaging certain land and also promise to repay loan within certain period — Document held not a promissory note but a simple mortgage—It can be admitted in evidence after paying deficit stamp duty and penalty—Document can be relied on as evidence of money debt though not as simple mortgage—Question involved was not very intricate and lower Court was not bound to make reference under S. 60 Mar 23A**

Stamp Duty—Stamp Act (contd.)

- S. 35 — Document held to be simple mortgage — It is admissible in evidence after paying stamp duty and penalty — *See Stamp Act (1899), S. 2 (22)* (Mar) 23A
- S. 36—Unstamped document exhibited in Court—Not open to party to challenge its admissibility on ground that it was not properly stamped (Aug) 49
- S. 60 (as applied to Manipur State)—Reference under — When Court not bound to make—*See Stamp Act (1899), S. 2 (22)* (Mar) 23A

TENANCY LAWS

- Manipur Land Revenue and Land Reforms Act (33 of 1960), S. 10**—Non-joinder of necessary parties is fatal — *See Constitution of India, Art. 226* (Aug) 63D
- S. 11—Remedy under not availed of — Petition under Art. 226—Effect—*See Constitution of India, Art. 226* (Nov) 79C
- S. 11—Scope (Nov) 79D
- S. 11 (4)—Provision does not bar filing of writ petition—*See Constitution of India, Art. 226* (Dec) 84I
- Ss. 14 (1), 95 — Notification No. 190 of 23-1-1963 issued in Manipur Gazette—Allotment of land by S. D. O. — D. C. cannot revise orders of allotment (Aug) 63A
- Ss. 14 (1), 81 and 98 — Manipur Land Revenue and Land Reforms (Allotment of Land) Rules (1962), R. 10—Settlement of land — Notice to villagers calling for objections — Though not obligatory is proper (Aug) 63B
- S. 14 (1) and (2) — Manipur Land Revenue and Land Reforms Rules, 1961, R. 6—Deputy Commissioner alone can allot land for purposes of agriculture or construction of dwelling houses—The Administrator can, however, direct the Deputy Commissioner to allot the land — Impugned order, a direct allotment by the Administrator and not a direction to Deputy Commissioner — Allotment, held, illegal (Dec) 84E
- S. 81 — Revision — Limitation — *See Tenancy Laws — Manipur Land Revenue and Land Reforms Act (Central Act 33 of 1960), S. 95* (Nov) 79A
- S. 81—Settlement of land—Notice calling objections from villagers — Not obligatory but proper — *See Manipur Land Revenue and Land Reforms Act (33 of 1960), S. 14 (1)* (Aug) 63B
- S. 94 (1)(a) — Manipur Land Revenue and Land Reforms Rules, 1961, R. 135 — Revenue Court to follow procedure under Civil P. C. — Order by Settlement Officer without hearing party is void and can be ignored — Hence an appeal against can be

Tenancy Laws — Manipur Land Revenue and Land Reforms Act (contd.)

- filed even beyond the 30 days period prescribed under S. 94 (1) (a) (Dec) 84F
- S. 95 — Deputy Commissioner cannot revise allotments made by S. D. O. — *See Manipur Land Revenue and Land Reforms Act (33 of 1960), S. 14 (1)* (Aug) 63A
- Ss. 95 and 81 — Manipur Land Revenue and Land Reforms Rules, 1961, Sch. III, Para 62 — No time prescribed for filing revision under — Revising authority is a Court and should decide a petition to condone delay on its merits (Nov) 79A
- S. 95—Revision filed under — Commissioner wrongly refusing to exercise jurisdiction — Interference — *See Constitution of India, Art. 226* (Nov) 79C
- S. 98 — Settlement of land — Notice calling objections from villagers— Not obligatory but proper—*See Manipur Land Revenue and Land Reforms Act (33 of 1960), S. 14 (1)* (Aug) 63B
- S. 98 — Manipur Land Revenue and Land Reforms Allotment of Land Rules, 1962, Rr. 6 and 8 — Landless agricultural worker is to be preferred in allotting land for agricultural purposes—A registered Co-operative Society to be preferred to the individual — Allotment ignoring the above is liable to be set aside (Dec) 84D
- S. 159—Provision does not bar filing of writ petition — *See Constitution of India, Art. 226* (Dec) 84I
- S. 170—Right of pasturage—Preservation of right—*See Constitution of India, Art. 226* (Nov) 79C
- Ch. V — Record of rights — Entries in — Admissible though record not finally published—*See Evidence Act (1872), S. 35* (Dec) 84B
- Manipur Land Revenue and Land Reforms Allotment of Land Rules (1962), R. 6**—Allotment whom to be made, stated—*See Tenancy Laws — Manipur Land Revenue and Land Reforms Act (33 of 1960), S. 98* (Dec) 84D
- R. 8 — Allotment whom to be made, stated—*See Tenancy Laws — Manipur Land Revenue and Land Reforms Act (33 of 1960), S. 98* (Dec) 84D
- R. 10—Settlement of land—Notice calling objections from villagers—Not obligatory but proper—*See Manipur Land Revenue and Land Reforms Act (1960), S. 14 (1)* (Aug) 63B
- Manipur Land Revenue and Land Reforms Rules (1961), R. 6**—Administrator can direct Deputy Commissioner to allot land — Impugned order, a direct allotment by Administrator and not direction to Deputy Commissioner—Allotment held illegal — *See Tenancy Laws — Manipur Land Revenue*

Tenancy Laws — Manipur Land Revenue and Land Reforms Rules (contd.)
 and Land Reforms Act (33 of 1960), S. 14 (1) and (2) (Dec) 84E
 — *R. 55 (ii)*—Entry in Dag Chitha maintained under—Evidentiary value — *See* Evidence Act (1872), S. 74 (Nov) 79B
 — *R. 66 and Form VII*—Entry in Dag Chitha maintained under—Evidentiary value — *See* Evidence Act (1872), S. 74 (Nov) 79B
 — *R. 135*—Revenue Court to follow procedure under Civil P. C.—Order without hearing party is void — *See* Tenancy Laws — Manipur Land Revenue and Land Reforms Act (33 of 1960), S. 94 (1) (a) (Dec) 84F
 — *Sch. III, Para. 62* — Filing of revision—Limitation—Condonation of delay—*See* Tenancy Laws — Manipur Land Revenue and Land Reforms Act (Central Act 33 of 1960), S. 95 (Nov) 79A

Transfer of Property Act (4 of 1882), S. 5 — Right to graze one's cattle on village grazing ground—Right to property—*See* Constitution of India, Art. 226 (Nov) 79E

T. P. Act (contd.)

— *S. 8* — Construction of documents — Settlement of land describing the boundaries — Recital about extent found incorrect — Boundaries to prevail over extents (Dec) 84A

— *S. 58*—Document reciting borrowing of money mortgaging certain land and also promise to repay loan within a certain period — Document held to be a simple mortgage—*See* Stamp Act (1899), S. 2 (22) (Mar) 23A

U. P. Panchayat Raj Act (26 of 1947)
See under Panchayats.

U. P. Panchayat Raj Rules, 1947
See under Panchayats.

Words and Phrases—"Domestic Tribunal"—Meaning of — *See* Constitution of India, Art. 226 (May) 41A

— *Falsa demonstratio* — *See* T. P. Act (1882), S. 8 (Dec) 84A

— "Void" judgment—*See* Tenancy Laws—Manipur Land Revenue and Land Reforms Act (33 of 1960), S. 94 (1) (a) (Dec) 84F

MANIPUR CASES SUBJECTWISE OVERRULED, REVERSED AND DISSENTED FROM ETC. IN A. I. R. 1969

Diss. = Dissented From in; Not F. = Not Followed in; Over. = Overruled in; Revers. = Reversed in.

Representation of the People Act (43 of 1951), S. 100 (1), (d), (iv)

Ele. Petn. Case No. 2 of 1967, D/- 10-1-1968 (Manipur). — Revers. AIR 1969 S C 663A (Aug)

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Ele. Petn. Case No. 2 of 1967, D/- 10-1-1968, (Manipur) — Revers. AIR 1969 S C 663A (Aug)

COMPARATIVE TABLE

A. I. R. 1969 Manipur = Other Journals

AIR Other Journals
 1 [CN 1] ...
 8 [CN 2] ...
 1969 Cri L J 124
 6 [CN 3] ...
 1969 Cri L J 128
 8 [CN 4] ...
 1969 Cri L J 216
 12 [CN 5] ...
 1969 Cri L J 220
 13 [CN 6] ...

AIR Other Journals
 21 [CN 7] ...
 22 [CN 8] ...
 1969 Cri L J 396
 23 [CN 9] ...
 27 [CN 10] ...
 1969 Cri L J 419
 29 [CN 11] ...
 30 [CN 12] ...
 33 [CN 13] ...

AIR Other Journals
 26 [CN 14] ...
 1969 Lab I C 561
 41 [CN 15] ...
 47 [CN 16] ...
 1969 Lab I O 956
 49 [CN 17] ...
 52 [CN 18] ...
 1969 Cri L J 985
 56 [CN 19] ...

AIR Other Journals
 58 [CN 20] ...
 63 [CN 21] ...
 67 [CN 22] ...
 1969 Lab I C 561
 75 [CN 23] ...
 79 [CN 24] ...
 84 [CN 25] ...
 90 [CN 26] ...
 1969 Cri L J 1512
 93 [CN 27] ...

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MYSORE SECTION

WITH COMPARATIVE TABLES FOR

- (1) I. L. R. MYSORE
- (2) KARNATAK LAW JOURNAL
- (3) LAW REPORTS
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MYSORE HIGH COURT

1969

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The Hon'ble Mr. Justice H. Hombe Gowda, B.Sc., LL.B. (up to 1-8-1969).

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" " M. Sadasivayya (Ag.C.J. 31-8-69 to 23-10-69 Permanent C.J. From 30-12-69).

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NOMINAL TABLE

Abdul Azeem v. Fahimunnisa Begum	(Aug) 226	Fernandes R. v. State of Mysore	(June) 196
Abdur Rahim Ahmed v. State of Mysore	(Aug) 248	Gambli v. K. Ramakrishnappa	(May) 158
Adappa S. v. Transport Commissioner in Mysore	(July) 222	Gangawwa v. State of Mysore	(Apr) 114
Alkbar Saheb M. v. Presiding Officer Mysore State Transport Appellate Tribunal, Bangalore	(Aug) 242	Gopalakrishna G. M. v. A. S. Machayya	(Nov) 337
Amir Bi v. Committee of Management of Nilasandra Mosque, Bangalore	(Mar) 103	Gurubasappa M. G. v. Rudriah	(Sep) 269
Asadi and Sons T. G. M. v. Coffee Board	(Aug) 230	Gurumurthappa M. v. Commissioner, Corporation of the City of Bangalore	(May) 160
Bank of Maharashtra Ltd. v. Official Liquidator High Court Buildings	(Sep) 280	Jagadguru Sachidananda Shankarabharati Swami of Sri Kudli Sringeri Mutt v. State of Mysore	(Mar) 95
Basalingappa Gowda v. Nagamma	(Oct) 313	Jinaraja Hegde v. Kusumu	(Sep) 265
Basappa v. Shrishailappa Shivappa	(June) 200	Joshi G. V. v. State of Mysore	(Oct) 300
Basappa Tippanna v. Bhimappa Ramappa	(April) 141	Kalaiah v. Arasaiah	(Sep) 275
Basha v. State of Mysore	(Sep) 277	Kanmani Films v. G. K. Kutty	(Sep) 259
Bhagwantha Rao Govinda Rao v. State of Mysore	(Oct) 306	Kannaiah R. v. Bangalore Woollen Cotton & Silk Mills Ltd. Co., Bangalore	(Nov) 341
Bharati Trading & Industrial Co. v. Coffee Board, Bangalore	(Sep) 257	Khazi Khurshid Ahmed v. Union of India	(Nov) 346
Bharat Motor Service, Bangalore v. State of Mysore	(July) 215	Kolkar H. D. v. State of Mysore	(Feb) 61
Bhimappa Timmappa Kividi v. Gireppa Laxmappa Kivadi	(May) 173	Lakshmi Bags Manufacturing Co., Bangalore v. State of Mysore	(Oct) 295
Boramma v. Dharmappa	(Jan) 17	Laxmi v. Parameshwari Hengsu	(May) 175
Bore Gowda v. B. Nagaraju	(Jan) 8	Lilly Stella Rodrigues v. Girija Bai	(Mar) 100
Cawasji and Co. D. Mysore v. State of Mysore	(Jan) 23	Malegowda v. Mugaiah	(Oct) 315
Chhotalal Morarji Dhami v. Regional Provident Fund Commissioner	(Dec) 355	Mallick Hashim and Co., Bijapur v. Commercial Tax Officer Bijapur	(Oct) 303
Chief Officer, Town Municipal Council, Nippani v. Ramchandra Dattatraya Patil	(June) 202	Mallihal Village Panchayat v. State of Mysore	(Nov) 345
Council of Institute of Chartered Accountants of India v. A. Umanath Rao	(Oct) 312	Manorama Smt. v. Jayabore Gowda	(Sep) 263
Devaraj Urs v. Mysore State Road Transport Corporation, Bangalore	(Aug) 225	Merey Soans v. State of Mysore	(Nov) 348
Devoraj M. S. v. S. V. Krishnamurthy	(Nov) 350	Mudambadithava G. B. v. Union of India	(Dec) 362
Doddahalli Shivanegowada v. District Registrar of Registration, Bangalore	(Dec) 360	Muddegowda M. v. State of Mysore	(Sep) 273
Dyamappa Butti v. Somappa	(Aug) 252	Muthyala Reddy v. State of Mysore	(Jan) 1
		Mysore Machinery Manufacturers Ltd. Bangalore v. State of Mysore	(Feb) 51
		Mysore S. R. T. Corporation Bangalore v. Khaja Mohiddin	(Feb) 41
		Mythili v. State of Mysore	(Feb) 59
		Najundappa R. N. v. T. Thimmiah	(June) 208
		Narayana Balhithilaya v. Venkatesha Balhithilaya	(Jan) 6

Narayanappa H. C. v. Mysore Revenue Appellate Tribunal, Bangalore.	(Sep) 266	Shindagi D. V. v. Saraswatibai Shivadas Subrao v. V. D. Divekar
Narayana Rao :C. S. v. City Improvement Trust Board, Bangalore	(Oct) 310	Sivhamurthy Swamy v. Agodi Songanno
National Newspapers, Tainadu v. K. Jayathirtha Rao	(May) 171	Sree Yellama Cotton, Woollen and Silk Mills Co., Ltd. In the matter of
Panchaksharappa V. v. Returning Officer-cum-Tahsildar	(Mar) 78	State of Mysore v. A. G. Ramaswamy
Pandharinath Gyanoba v. Manikrao Shamrao	(Mar) 84	State of Mysore v. F. D. Malladad
Parekh and Brothers M. v. State of Mysore	(May) 167	State of Mysore v. R. J. Shah & Co. Ltd.
Patel Muniswamy Gowda v. Mysore Revenue Appellate Tribunal, Bangalore-1	(Sep) 270	Subbaiah K. V. v. State of Mysore
Pillayya Nagamangala Venkatappa v. State of Mysore	(Aug) 240	Subbamma v. V. Kannappachari
Puttamadamma v. Puttappa	(Jan) 20	Subhas Chandra Shetty B. v. State of Mysore
Ramachandra v. Anasuyabai	(Feb) 64	Syed Ismail Qadri v. Syed Abdul Nabi
Ramachandra Rao M. v. M. S. Kowsalya	(Mar) 76	Tata Keshavaiah Setty v. M. Ramayya Setty
Ramangouda v. Firm by name "Gonhal Basangouda Basavarajappa Rajendra Gunj Raichur	(Mar) 111	Thyavanige Village Panchayat v. Divisional Commissioner, Bangalore Division (May)
Sadananda M. S. v. State of Mysore	(Oct) 319	Venkataiah Thimmaiah S. T. Dr. v. State of Mysore
Sanjeevappa v. Ajappa	(Oct) 293	Venkata Reddy C. v. Income Tax Officer (Central)
Shankarappa Gurappa v. Ramnagowda Sahebagoowda	(Oct) 297	Vijaya Traders Shimoga v. Commissioner of Income Tax, Mysore
Shantabai Baswanth Rao v. Manik Rao Panduranga Rao	(Aug) 255	Wool Industry Development, Co-operative Association Ltd. Ranibennur v. Khadi and Village Industries Commission, Bombay
Sharada Bai M. A. v. State of Mysore	(May) 162 (FB)	Youssoof Marakair v. State of Mysore

SUBJECT INDEX

Aliasanthana Law—Partition—Hindu family governed by Aliyasantanam law — Succession — *See* Madras Aliyasanthana Act (9 of 1949), S. 36 (5) (May) 175

Arbitration Act (10 of 1940), S. 3 and Sch. 1, R. 4 — Disagreement between arbitrators — All matters, including matters in respect of which arbitrators disagreed, fell to be decided by umpire (Aug) 237A

— *S. 14 (2)*—Production of award in Court by Arbitration—Art. 119 (a), Limitation Act, 1963 does not apply — *See* Limitation Act (1963), Art. 119 (a) (Dec) 361

— *Sch. 1, Para 2*—Umpire to hear evidence de novo (Aug) 237B

— *Sch. I, R. 4* — Disagreement between arbitrators—Agreement silent about umpire's part — All matters of disagreement fall for decision by umpire — *See* Arbitration Act (1940), S. 3 (Aug) 237A

Bombay Police Act (22 of 1951), S. 25 (2) (a), (c)—Bombay Police (Punishment and Appeal) Rules (1956), R. 17 (2) — Validity — Power of State Government to enhance punishment under its revisional jurisdiction — *S. 25 (2) (c)* does not authorise revisional jurisdiction—R. 17 (2) is invalid (Feb) 61

Bombay Police (Punishment and Appeal) Rules (1956), R. 17 (2)—Validity—Power of State Government to enhance punishment under its revisional jurisdiction — R. 17 (2) is invalid — *See* Bombay Police Act (22 of 1951), S. 25 (2) (a) (c) (Feb) 61

Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947)
See under Houses and Rents.

Chartered Accountants Act (38 of 1949), S. 21 (1) — Council can commence disciplinary proceedings on a complaint by a stranger who may have no authority to prefer it (Oct) 312A

— *Ss. 21 (5), 21 (6) (b), Sch. II, Part I, Cls (7), (8) and (9)*—Bona fide entrustment of audit work to assistants—No dishonesty alleged—Misconduct falling under Cls. (7), (8) and (9) of Part I, Sch. II—Reprimand under S. 21 (6) (b), held sufficient (Oct) 312B

— *Sch. II, Part I, Cl. 7*—Bona fide misconduct, falling under—Reprimand under S. 21 (6) held sufficient—*See* Chartered Accountants Act (1949), S. 21 (5) (Oct) 312B

— *Sch. II, Part I, Cl. 8*—Bona fide misconduct, falling under—Reprimand under S. 21

Chartered Accountants Act (contd.)

(6) (b) held sufficient — *See* Chartered Accountants Act (1949), S. 21 (5) (Oct) 312B

— *Sch. II, Part I, Cl. 9* — Bona fide misconduct falling under—Reprimand under S. 21 (6) (b) held sufficient — *See* Chartered Accountants Act (1949), S. 21 (5) (Oct) 312B

City of Bangalore Improvement Act (5 of 1945)

See under Municipalities.

City of Bangalore Municipal Corporation Act (69 of 1949)

See under Municipalities.

Civil Procedure Code (5 of 1908), Pre.—Interpretation of Statutes—'Contrary to any provision of law'—Meaning to be given to the expression depends upon the context in which it appears — *See* Houses and Rents — Mysore Rent Control Act (22 of 1961), S. 21 (f) (Mar) 100

— *Pre.*—Interpretation of Statutes — Taxing provision—Construction which would greatly diminish the efficacy of the provision should not be accepted unless its language is clear and compels such construction (May) 167B

— *Pre.*—Interpretation of Statutes—Rules to be read subject to provisions of Act—*See* Panchayats — Mysore Village Panchayats and Local Boards Act (10 of 1959), S. 37 (Sep) 275

— *S. 11 and O. 21, R. 94*—Proceedings under O. 21, R. 94 started by surviving partner in respect of property purchased by deceased partner in name of firm—Surviving partner agreeing under compromise decree between himself and widow of deceased partner to give up his right in such property and agreeing to the continuance of proceedings under O. 21, R. 94 by widow of deceased partner — His plea in such proceedings not to issue certificate to widow is not maintainable — Partner held estopped from raising such plea and further that such plea is barred by res judicata (Mar) 73B

— *S. 21*—Suit brought by wife in Court of District Judge under Dissolution of Muslim Marriages Act, 1939 for dissolution of marriage — Contention that suit should have been instituted in the Court of Munsiff raised after finding on impotence was recorded and District Judge was called upon to make decree on application of wife—Held assumption of jurisdiction by District Judge,

Civil P. C. (contd.)

even if he did not possess it, did not result in failure of justice and objection could not be allowed (Aug) 226C

—S. 92—Property dedicated to mosque — Property in possession of wife of deceased executant of wakf — Wife has no right to occupy the property and she is only a stranger — Suit by plaintiff-mosque to recover possession — S. 92 has no application and consequently consent of Advocate-General for filing of suit not necessary (Mar) 103E

—S. 100 — Negligence on the part of guardian in conducting suit — Question of law (Jan) 8B

—S. 100—Finding as to service of notice under S. 6, Mysore Motor Vehicles (Taxation on Passangers and Goods) Act (1961) is a finding of fact — See Constitution of India, Art. 226 (July) 222A

—Ss. 100-101—New point—Deed of Wakf — Proof of execution — Execution of document not specifically disputed and no issue raised in lower Courts and consequently no decision—Question of proof of execution of the document held could not be raised for the first time in second appeal (Mar) 103A

—S. 107 (d), O 41, R. 27—Additional evidence when may be admitted in appeal — Failure to adduce evidence in Court of first instance—No satisfactory explanation therefor—Cannot be admitted as additional evidence in appeal (Jan) 6B

—S. 115—Nature of order made in revision — Extent of Court's powers—AIR 1945 Mad 103, Dissented (Mar) 77

—S. 115—Temporary injunction—Balance of convenience in favour of defendant and not of plaintiff—Trial Court granting temporary injunction in view of loss to plaintiff — Appellate Court's interference with order is not exercise of jurisdiction with material irregularity — No interference in revision—See Civil P. C. (1908), O. 39, R. 1 (Nov) 337

—S. 151—Application under S. 9 of Hindu Marriage Act for restitution of conjugal rights by husband—Court ordering husband to pay maintenance—Maintenance falling in arrears—Court can in its inherent power order stopping of further proceedings under S. 9 to enforce order of maintenance — See Hindu Marriage Act (1955), S. 24 (Mar) 76

—S. 153 — Suit by firm — Plaintiff suing through mistake as owner of firm—Mistake curable—See Civil P. C. (1908), O. 30, R. 1 (Mar) 111

—O. 1, R. 9 — Suit for compensation for negligence of driver — Not invalid for non-joinder of authority selecting him for appointment — See Tort — Negligence (May) 153

Civil P. C. (contd.)

—O. 1, R. 10 — Suit by firm — Plaintiff suing through mistake as owner of firm — Suit maintainable—Mistake can be set right — See Civil P. C. (1908), O. 30, R. 1 (Mar) 111C

—O. 1, R. 10 — Person not party to reference under S. 30, Land Acquisition Act (1894)—Civil Court cannot implead him as party — See Land Acquisition Act (1894), S. 30 (Oct) 313

—O. 6, R. 17 — Suit by firm — Plaintiff through mistake suing as owner of firm — Defect not fatal — It can be set right — See Civil P. C. (1908), O. 30, R. 1 (Mar) 111C

—O. 6, R. 17—Application under—Reliefs claimed in original suit and amendment application flowing from same set of facts — Mere fact that two reliefs claimed are inconsistent with each other would not be sufficient to reject prayer of amendments (Sep) 259

—O. 6, R. 17—Amendment relating to extended period of limitation under S. 24, Mysore Agriculturists' Relief Act on basis of acknowledgment by defendant of suit transactions in another case — Amendment does not involve change of cause of action and has to be allowed (Oct) 299

—O. 21, R. 94—Grant of sale certificate — Property purchased in auction by deceased partner on behalf of firm — Certificate can be issued to legal representative of the deceased partner. AIR 1938 All 471, Diss. from (Mar) 73A

—O. 21, R. 94 — Proceedings under, by surviving partner in respect of property purchased by deceased partner in the name of firm—Compromise decree between surviving partner and widow of deceased giving up his rights in property and agreeing to the continuance of proceedings under O. 21, R. 94 by the widow of deceased — His plea in such proceeding not to issue certificate to widow is not maintainable and he is also estopped from raising such plea and further that such plea is barred by res judicata — See Civil P. C. (1908), S. 11 (Mar) 73B

—O. 21, R. 94—Compromise decree passed in suit filed by surviving partner against widow of deceased partner in respect of firm's property—Surviving partner agreeing to give up his right in respect of suit property—Decree whether compulsorily registrable—See Registration Act (1908), S. 17 (2) (vi) (Mar) 73C

—O. 23, R. 1 (2) (a) and (b)—Words "other sufficient ground" in cl. (b) should be read independent of words "formal defect" in cl. (a) — Court can allow withdrawal from

Civil P. C. (contd.)

suit in the interest of justice. AIR 1940 Bom 121 (FB) and AIR 1951 All 845 (FB), Diss.

(Apr) 141

—O. 30 R. 1, O. 1, R. 10, O. 6, R. 17, S. 153

—Suit by firm — Plaintiff suing by mistake as owner of firm — Defendant signing for same taken in books of firm — Suit cannot be held to be not maintainable on technical ground that plaintiff sued in his own name — Mistake in plaint can be set right

(Mar) 111C

—O. 32, R. 7—Negligence in conducting suit by guardian — Avoidance of decree by minor — Grounds

(Jan) 8A

—O. 39, R. 1—Suit for permanent injunction in respect of road—Temporary injunction first sought — Principles, stated

(Nov) 337

—O. 39, R. 1 — Temporary injunction — Grant of — Principles — Balance of convenience found in favour of defendant — Injunction refused

(Nov) 341

—O. 40, R. 1—Plaint returned for want of jurisdiction — Court appointing receiver during pendency of suit—Term of receiver not expressly fixed — Court can issue direction to receiver even after refileing of suit in a proper Court — Probability of anomalous situations — Remedy open to parties

(May) 173

—O. 41, R. 27—Additional evidence when may be admitted in appeal — See Civil P. C. (1908), S. 107(d)

(Jan) 6B

—O. 41, R. 27 — Admission of additional evidence by appellate Court — Reasons not recorded—Use of word "shall" in sub-r. (2) does not make Rule mandatory — Appellate Court's judgment not vitiated

(Mar) 111A

—O. 41, R. 27 — Admission of additional evidence by appellate Court — Evidence regarding partnership not produced in lower Court — Appellate Court allowing production of registration certificate — Held, Appellate Court could do so as certificate was required to enable it to pronounce judgment

(Mar) 111B

CIVIL SERVICES

—Mysore Civil Services Rules, R. 285, Note 1 — Retirement in public interest — Satisfaction should be of Government—For judicial officers Government should consult High Court—See Constitution of India, Art. 235

(Aug) 248A

—R. 285 and Note 1—Both must be read together and construed harmoniously — There is no conflict or repugnancy between them

(Aug) 248B

—R. 285, Note 1 — Compulsory retirement not a stigma — No hearing needed before

Civil Services — Mysore Civil Services Rules (contd.)

orders are passed—See Constitution of India, Art. 311

(Aug) 248C

—R. 285—Compulsory retirement—Material on basis of which Government comes to conclusion that retirement would be in public interest need not be disclosed to official proposed to be retired — Hence, official not entitled to ask for such material and especially when ground of mala fides is not taken

(Aug) 248D

—R. 285, Note 1—Validity—Not repugnant to Art. 311 of Constitution

(Aug) 248E

—Mysore Civil Services Rules, 1957, R. 8(27-A)

—'Local candidate' in service — Meaning of — 'Regularisation' of service of such candidate — Meaning of

(June) 186A

—R. 8 (27-A) — Person substantively appointed to a post in certain cadre officiating in a post in higher cadre — Not a 'local candidate' within R. 8 (27-A) — Question of regularisation of his services does not arise

(June) 186E

—Mysore Education Department Services (Technical Education Department) Special Recruitment Rules (1967) — Governor can make rule, regularising irregular temporary appointment of a single civil servant — See Constitution of India, Art. 309

(June) 208A

—Mysore Government Servants (Seniority) Rules (1957), R. 1-A — Local candidate in service—Meaning of — See Civil Services — Mysore Civil Services Rules (1957), R. 8 (27-A)

(June) 186A

—R. 1A — Governor can make rule regularising irregular temporary appointment of a single civil servant — See Constitution of India, Art. 309

(June) 208A

—R. 1-A, Proviso — Determination of seniority — Petitioners were regular candidates in service and were officiating in certain posts — Respondents were local candidates in service on similar posts—Government Order dated 28-6-1966 regularising services of respondents—Relative seniority as between petitioners and respondents should be determined without reference to order of regularisation of respondents in service or even to subsequent temporary promotion of one of respondents to a higher post

(June) 186G

Coinage Act (3 of 1906), S. 14 (3) — Mysore Existing Laws (Construction of References to Values) Act (12 of 1957), S. 3 — Madras General Sales Tax Act (9 of 1939) — Computation of tax payable under Madras Act — Method of conversion of old coinage into

Coinage Act (contd.)

new coinage : (1960) 38 Mys L J 567, held not good law in view of AIR 1965 S C 560

(Aug) 230A

Companies Act (1 of 1956), S. 293—Disposal of undertaking of Company — 'Undertaking' and 'Floating charge'—Meaning of—History of concept of floating charge — Held, on facts that documents in question created floating charge and that excepting one clause which empowered mortgagee to actually take over management of business, no other clause contravened provisions of S. 293

(Sep) 280C

—S. 446 (2) — Disputed debt, recovery of — Liquidator approaching Court invokes powers under S. 446 (2)—See Court-fees and Suits Valuations — Mysore Court-fees and Suits Valuation Act (1958), Sch. II, Art. 11 (U)

(Sep) 280A

—S. 456 (2) — Consequences following order of winding up of company—See Court-fees and Suits Valuations—Mysore Court-fees and Suits Valuation Act (1958), Sch. II, Art. 11 (U)

(Sep) 280A

—S. 460 (4) — Liquidator — Authority to apply to Court for directions—See Court-fees and Suits Valuations — Mysore Court-fees and Suits Valuation Act (1958), Sch. II, Art. 11 (U)

(Sep) 280A

—S. 467 — Duties of official liquidator to collect assets of company and application thereof — See Court-fees and Suits Valuations — Mysore Court-fees and Suits Valuation Act (1958), Sch. II, Art. 11 (U)

(Sep) 280A

—S. 529 — Pledgee—Right to sale pledged article without intervention of Court — See Contract Act (1872), S. 172

(Sep) 280B

Companies (Court) Rules (1959), R. 232 — Liquidator attempting to reduce properties to his possession — Resistance to — Liquidator approaching Court for directions — Liquidator invoking powers under R. 232—See Court-fees and Suits Valuations—Mysore Court-fees and Suits Valuation Act (1958), Sch. II, Art. 11 (U)

(Sep) 280A

—R. 233—Liquidator attempting to reduce properties to his possession—Resistance to — Liquidator approaching Court for directions — Liquidator invoking powers under R. 233—See Court-fees and Suits Valuations — Mysore Court-fees and Suits Valuation Act (1958), Sch. II, Art. 11 (U)

(Sep) 280A

Constitution of India, Preamble and Sch. 7, Lists I, II and III — Interpretation of Legislative Entries

(Jan) 23H

—Art. 13 — Scheme for nationalisation of transport services under S. 68-C of Motor Vehicles Act — Not void for want of proof of reasonableness of restrictions — Cannot

Constitution of India (contd.)

be struck down under Art. 13 — See Constitution of India, Art. 19 (1) (g) and (6)

(Oct) 319J

—Art. 14 — Section 16 (2) of Mysore Act 5 of 1945 is not unconstitutional—See Municipalities — Mysore City of Bangalore Improvement Act (5 of 1945), S. 16 (2): (Jan) 122

—Art. 14 — Different laws in different parts of State — Levy of education cess only in old Mysore area (excluding Bellary district) under Mysore Elementary Education Act, 1941 (as amended) does not violate Art. 14 of the Constitution

(Jan) 23D

—Art. 14 — Granting rebate to some and not others or giving rebate on one type of goods is not discrimination within the Article — See Khadi Village Industries Commission Act (1956), S. 15

(Feb) 47

—Arts. 14 and 16 — Provisions of Art. 14 do not ensure absolute uniformity — Likewise equality of opportunity for appointment to public offices under Art. 16 need not be absolute — Rule 2 of Mysore Absorption of Instructors and Assistant Instructors in Tailoring Rules providing for appointment of retrenched craft teachers from Commerce and Industries Department as Tailoring Instructors in Education Department notwithstanding any orders fixing the qualification for such Instructors, do not violate Arts. 14 and 16 of the Constitution — Such retrenched crafts teachers form a separate class

(Feb) 59

—Art. 14 — Section 132, Income-tax Act, 1961 — Not violative of the Article—See Income-tax Act (1961), S. 132

(Apr) 118A

—Arts. 14 and 16 — Fundamental right to equality of opportunity in service—Ambit of — Appointment of local candidates and regularisation of their services—Not necessarily violative of Art. 16 — Question depends on facts of each case

(June) 186C

—Arts. 14 and 226—Violation of Art. 14 — Person complaining about hostile discrimination must show that he is personally aggrieved by the alleged discrimination—Onus lies on him to place sufficient material before Court

(June) 186D

—Arts. 14 and 226 — Person aggrieved — Writ petition challenging regularisation of services of respondents who had been appointed as local candidates — Petitioners who had been substantively appointed to certain posts and hence not local candidates in service cannot complain about unjust discrimination as between respondents on one hand and rest of local candidates on other as petitioners cannot be said to be aggrieved persons

(June) 186F

Constitution of India (contd.)

- Art. 14* — Civil services—Governor can make rule, regularising irregular temporary appointment of a single civil servant — *See* Constitution of India, Art. 309 (June) 208A
- Art. 14* — Mysore Sales Tax Act (25 of 1957), Ss. 12-A, 22 (as it stood prior to its amendment by Act 3 of 1966)—Section 12-A offended against Art. 14 and was therefore void (Oct) 295
- Art. 14* — Power under S. 68-B of Motor Vehicles Act—Validity—*See* Motor Vehicles Act (1939), S. 68B (Oct) 319K
- Art. 14* — Motor Vehicles Act (1939), S. 68D—Provisions of, are not repugnant to provisions of Art. 14 (Oct) 319L
- Arts. 14 and 16*—Allotment of physical instructors in Hyderabad State and four other regions to new State of Mysore on reorganisation of States—New State treating posts as equal and placing them in one cadre — Revision of their pay scale—Exclusive assignment of higher pay scale to physical instructors coming from Hyderabad held discriminatory and unjustified (Nov) 348
- Art. 15*—Granting of rebate to some and not to others or giving rebate on one type of goods is not discrimination — *See* Khadi Village Industries Commission Act (1956), S. 15 (Feb) 47
- Art. 16*—Equality of opportunity for appointment—Not absolute — *See* Constitution of India, Art. 14 (Feb) 59
- Art. 16*—Appointment of local candidates and regularisation of their services — Not violative of Art. 16—*See* Constitution of India, Art. 14 (June) 186C
- Art. 16*—Governor can make a rule regularising irregular temporary service of a single civil servant — *See* Constitution of India, Art. 309 (June) 208A
- Art. 16*—Transformation of employees of private Trust Fund in Government service pursuant to taking over its activities by Government—There is no fresh employment—Such transformation does not violate Art. 16 (Nov) 346B
- Art. 16*—Allotment of physical instructors from five regions to new State of Mysore on reorganisation of States—Assignment of a higher pay scale for allottees from one State and a lower pay scale for allottees from another held discriminatory and unjustified — *See* Constitution of India, Art. 14 (Nov) 348
- Art. 16 (4)*—Socially backward class—School teacher is not member of backward class—Even if such teacher after retirement takes to agriculture as his occupation, he does not qualify under Mysore Government Order No. ED 75 TGL D/- 26-7-1963—Ad-

Constitution of India (contd.)

- mission to Medical College cannot be granted to his son on ground of one belonging to socially backward class (Feb) 48.
- Art. 19*—Section 132, Income-tax Act — Does not violate fundamental rights under the Article—*See* Income-tax Act (1961), S. 132 (Apr) 118A
- Art. 19 (1) (f)*—Acquisition for public purpose—Notice calling for objections need not precede—Failure to give such notice before declaration of public purpose — No infringement of Art. 19 (1) (f)—*See* Constitution of India, Art. 31 (Jan) 1A
- Arts. 19 (1) (g) and (6) and 13*—Motor Vehicles Act (1939), S. 68C—Scheme under, for nationalisation of transport services — Imposition of restrictions on fundamental right of private operators under Art. 19 (1) (g)—Protection given by 1st Amendment to Constitution (1951), is available to those restrictions—Fresh proof of their being reasonable is not necessary (Oct) 319J
- Art. 21*—Section 132, Income-tax Act, 1961—Does not violate right under the article—*See* Income-tax Act (1961), S. 132 (Apr) 118A
- Arts. 21, 31 (f)*—Articles contemplate a valid law i. e., a law which does not infringe any of fundamental rights such as those established in Arts. 14 and 19 (Apr) 118B
- Arts. 31, 19 (1) (f)*—Public purpose — Declaration of, by authority—Notice calling for objections need not precede—Failure to give such notice before declaration of public purpose—No infringement of Art. 19 (1) (f) (Jan) 1A
- Art. 31*—Section 132, Income-tax Act, 1961 — Not violative of rights under the article—*See* Income-tax Act (1961), S. 132 (Apr) 118A
- Art. 31 (f)*—Article contemplates a valid law i.e., a law which does not infringe any fundamental rights — *See* Constitution of India, Art. 21 (Apr) 118B.
- Art. 162 and Art. 309, Proviso and Sch. 7, List. II, Entry 41*—Executive power of State Government in relation to State Public Services — Ambit of — State Government is competent to regularise services of local candidates under its executive power even in absence of express provision of law provided it is not opposed to any existing provision (June) 186B.
- Art. 226*—Mandamus—Dismissed workmen staying on premises of factory and refusing to leave — It is not stay-in-strike—It is offence of criminal trespass—Complaint to police for removal of such workmen from premises—Police has power to take action under Criminal P. C., or Mysore Police Act

Constitution of India (contd.)

- Inaction by police authorities—Mandamus can be issued against them (Feb) 51
- *Art. 226*—Extent of judicial review of action of Commissioner of Income-tax—*See* Income-tax Act (1961), S. 132 (Apr) 118H
- *Art. 226*—Mysore Village Panchayats and Local Boards Act (10 of 1959), S. 3 (2)—Action taken under S. 3 (2) is not a quasi-judicial but an administrative act—It is however amenable to judicial review under *Art. 226* (May) 149B (FB)
- *Art. 226*—Violation of *Art. 14*—Onus — *See* Constitution of India, *Art. 14* (June) 186D
- *Art. 226*—Person aggrieved—Who is— *See* Constitution of India, *Art. 14* (June) 186F
- *Art. 226*—Natural justice—Damages recoverable under S. 14B of Employees Provident Funds Act are in the nature of punishment—Opportunity of being heard against determination has to be given to defaulter— *See* Employees Provident Funds Act (1952), S. 14B (June) 196C
- *Art. 226*—Adjudication by Government under S. 68D, Motor Vehicles Act is subject to judicial review in a limited way — *See* Motor Vehicles Act (1939), S. 68D (July) 215A
- *Art. 226* — Motor Vehicles Act (1939), Ss. 68-C, 68-D — Draft scheme prepared in 1964 — Chief Minister according approval in 1967—Opportunity to seek modifications given to persons making representations — Modifications not placed before Chief Minister — High Court cannot denounce approved scheme on those modifications while acting under *Art. 226* (July) 215E
- *Art. 226*—Finding as to service of notice before making the best judgment assessment under S. 6 of the Mysore Motor Vehicles (Taxation on Passengers and Goods) Act, 1961 is a finding on question of fact—Finding cannot be canvassed in High Court under *Art. 226* (July) 222A
- *Art. 226* — Stage carriage permit, grant of—New grantee given timings to the prejudice of old permit holder—State transport Appellate Tribunal forming opinion on relevant consideration — No upsetting in writ jurisdiction deemed necessary — *See* Motor Vehicles Act (1939), S. 47 (Aug) 242C
- *Art. 226* — Certiorari — Petitioner firm agent to Coffee Board for curing operations — Clause in agreement that dispute arising out of contract could be decided by Court alone — Deficiency in out-turn of coffee — Chief Marketing Officer directing firm to pay a certain sum for deficiency in

Constitution of India (contd.)

- out-turn—Appeal filed by firm against order to Coffee Board dismissed — Held that the order made by the Chief Marketing Officer was not an adjudication of a tribunal which could bind the petitioner nor the decision in appeal had that status—Matter continued to remain as a dispute and the Court alone could make the adjudication—Hence writ of certiorari could not issue (Sep) 257
- *Arts. 226 & 227* — Certiorari — Grant of stage carriage permits on basis of relative merits of parties — High Court will not re-assess the relative merits of the parties to decide whether order granting permits was proper (Sep) 266A
- *Art. 226* — Certiorari — Jurisdiction of High Court to issue, is supervisory and not appellate — Findings of fact cannot be reopened — Error of law apparent on face of record can be corrected but not error of fact — That a tribunal failed to consider whether there was valid grant of land, is not an error that is patent on face of record (Sep) 273
- *Art. 226*—State Government acting under S. 68-D, Motor Vehicles Act (1939) is quasi judicial authority — Powers as such—*See* Motor Vehicles Act (1939), S. 68C (Oct) 319A
- *Art. 226*—Motor Vehicles Act (1939), S. 68-D — Approval of scheme regarding nationalisation of transport services—Petition against—Scheme when can be quashed (Oct) 319C
- *Art. 226* — Writ of Mandamus — Does not issue in respect of exercise of administrative function by State Government (Nov) 345
- *Art. 226* — Preparation of inter-State seniority list — Criteria for question of posts not followed — Seniority list set aside — A I R 1969 Punj 34 held not good law in view of AIR 1968 S C 850 — *See* States Reorganisation Act (1956), S. 115 (Dec) 362
- *Art. 227*—Finding of fact—Interference — *See* Minimum Wages Act (1948), S. 20 (2) (June) 202A
- *Art. 227*—Grant of stage carriage permit based on relative merits — High Court will not interfere — *See* Constitution of India, *Art. 226* (Sep) 266A
- *Art. 235* — Mysore Civil Services Rules, Rule 285, Note 1 — Compulsory retirement — Satisfaction that retirement is in public interest is that of Government — Judicial Officer, however, retired after consultation with High Court — Order cannot be said to be in any way in conflict with *Art. 235* (Aug) 248A

Constitution of India (contd.)

—*Art. 245*—Power under S. 68-B of Motor Vehicles Act—Validity—*See* Motor Vehicles Act (1939), S. 68B (Oct) 319K

—*Art. 254*—Madras Aliyasanthana Act (9 of 1949), S. 36—Hindu Succession Act (1956) S. 7 (2) —Repugnancy between Central and State Act—When arises—Acts held covered different fields and hence not repugnant (May) 175B

—*Art. 261 (1)*—Scope—It confers no new jurisdiction on Court of any State (June) 203B

—*Art. 265* — Education cess on Beer and Toddy shops rents—Leviability—*See* Mysore Excise Act (5 of 1901), S. 29 (Jan) 23C

—*Art. 265*—"Tax and Cess" — Term cess is used when levy is for some special administrative expense (Jan) 23E

—*Art. 265*—Payment of tax under mistake of law — Refund— *See* Contract Act (1872), S. 72 (Jan) 23K

—*Art. 265 and Sch. VII List II Entry 62*—Tax—Essentials — Shop rent under Mysore Excise Act is not a tax—It is not a tax on luxury (Jan) 23J

—*Art. 265 Sch. VII List II Entries 8, 46 to 63* —Power to tax cannot be deduced as an ancillary power from legislative entries (Jan) 23I

—*Art. 265* — Levy of octroi duty without following the prescribed procedure under S. 98 (1), City of Bangalore Municipal Corporation Act (69 of 1949) is without authority of law and violative of Art. 265—*See* Municipalities — City of Bangalore Municipal Corporation Act (69 of 1949), S. 97 (May) 167A

—*Art. 277*—Tax imposed under a pre-Constitution statute — Valid continuance after Constitution—Conditions essential—Education cess levied under Mysore Elementary Education Act—Validity (Jan) 23G

—*Art. 302*—Scheme for nationalisation of routes under S. 68-C of Motor Vehicles Act —Imposition of restriction on exercise of right created by inter-State permit — Parliament's right to do so under Art. 302 is not exclusive — *See* Motor Vehicles Act (1939), S. 68C (Oct) 319I

—*Art. 309* — Protection under Art. 311 — Cannot be taken away by any legislation or by Rule under Art. 309—*See* Constitution of India, Art. 311 (1) (Feb) 41B

—*Art. 309, Proviso* — Rules under — Local candidate in service—Meaning of—*See* Civil Services — Mysore Civil Services Rules, (1957), R. 8 (27A) (June) 186A

—*Art. 309, Proviso* — Executive power of State Government in relation to State ser-

Constitution of India (contd.)

vices—Ambit of—*See* Constitution of India, Art. 162 (June) 186B

—*Arts. 309, 14, 16* — Governor can make rule, regularising irregular temporary appointment of a single civil servant (June) 208A

—*Arts. 310, 311* — Reduction in rank—A, one Assistant Master in High School, appointed to post of Special Officer Hindi by process of selection—Review of promotions made irregularly on basis of provisional Inter State Seniority List as superseded by final Inter State Seniority List — Reversion of A from Class II to Class III post—Reversion is illegal and must be quashed (Oct) 306

—*Arts. 311 (1), 309* — Protection under — Cannot be taken away by any legislation or by Rule under Art. 309 (Feb) 41B

—*Art. 311*—Compulsory retirement—Mysore Civil Services Rules, R. 285, Note 1 — Compulsory retirement in public interest — It is not by way of punishment and does not cast any stigma on official retired—Government not under obligation to give opportunity of hearing (Aug) 248C

—*Art. 311* — Mysore Civil Service Rules, R. 285, Note 1 — Not repugnant to Art. 311 —*See* Civil Service — Mysore Civil Services Rules, R. 285, Note 1 (Aug) 248E

—*Art. 311* — Promotion given by process of selection — Review of promotion made irregularly and promotee reverted — Reversion must be quashed — *See* Constitution of India, Art. 310 (Oct) 306

—*Art. 311 (1)* — 'An authority subordinate — Does not mean an existing subordination — Authority appointing public servant ceasing to exit — Effect — Subordinate Officer cannot dismiss the servant—Such dismissal contravenes Art. 311 (1) — AIR 1960 Madh Pra 254 and AIR 1959 Madh Pra 43 and AIR 1958 Cal 356, Dissented from (Feb) 41C

—*Art. 311 (2)* — Government taking over management of private Trust fund and treating its employees as Government Servants — Services rendered by them in Trust fund are to be treated as part of services rendered under Government (Nov) 346A

—*Art. 329 (b)*—Representation of the People Act (1951), S. 100 (1) (d) (iv)—Representation of the People Act (1950), S. 30 — Electoral rolls — Correctness of—Cannot be challenged in election petition under Art. 329 (b) — Jurisdiction of High Court to try such issue is barred under S. 30 (Mar) 84A

—*Sch. 7, List I* — Interpretation of entries in the list — *See* Constitution of India, Preamble (Jan) 23H

Constitution of India (contd.)

—*Sch. 7, List II*—Interpretation of entries in the list — *See* Constitution of India, Preamble (Jan) 23H

—*Sch. VII, List II, Entry 8* — Power to tax — Cannot be deduced as ancillary power from legislative entries — *See* Constitution of India, Art. 265 (Jan) 23I

—*Sch. 7, List II, Entry 41* — Executive power of State Government in relation to State services — Ambit of—*See* Constitution of India, Art. 162 (June) 186B

—*Sch. VII, List II, Entry 46 to 63* — Power to tax — Cannot be deduced as an ancillary power from legislative entries — *See* Constitution of India, Art. 265 (Jan) 23I

—*Sch. VII, List II, Entry 62* — Shop rent under Mysore Excise Act is not a tax *See* Constitution of India, Art. 265 (Jan) 23C

—*Sch. 7, List III* — Interpretation of entries in the list — *See* Constitution of India, Preamble (Jan) 23H

Contract Act (9 of 1872), S. 15 — Coercion means every kind of compulsion even if it does not measure up to definition under S. 15 Contract Act (1872)—*See* Contract Act (1872), S. 72 (Aug) 230C

—*Ss. 39 and 73*—Waiver of default (Oct) 310

—*S. 70*—Contract of repairs etc. of defendant's house entered into by plaintiff in his capacity of agent—Cancellation of power of attorney—Balance of amount paid by plaintiff to contractor without knowledge of principal — Payment is voluntary and officious — Benefit of section cannot be claimed (Nov) 350

—*S. 72*—Payment of tax under mistake of law—Party so paying entitled to recover — Payment of education cess on Toddy Shop rent, Beer shop rent and Arrack shop rent under Mysore Excise Act declared void — Parties are entitled to refund (Jan) 23K

—*Ss. 72 and 15* — Word 'coercion' in S. 72 is to be understood in its ordinary sense—It includes every kind of compulsion even if it does not measure up to 'coercion' as defined by S. 15 (Aug) 230C

—*S. 72* — 'Coercion' within meaning of S. 72 is a wrongful act, producing liability to restitution — Liability to make restitution is absolute — It does not come to end even if person compelling payment parts with amount received by him (Aug) 230D

—*S. 73* — Breach of contract — Breach waived by lapse of time—Remedy for breach is lost — *See* Contract Act (1872), S. 39 (Oct) 310

—*Ss. 172 and 176*—Scope—Hypothecation or pledge of movable goods — Liquidation proceedings — Creditor is entitled to retain

Contract Act (contd.)

possession and to exercise right of private sale without intervention of Court (Sep) 280B

—*S. 176* — Pledge — Right of creditor to retain possession and to sell without intervention of Court — *See* Contract Act (1872), S. 172 (Sep) 230B

Court-fees Act (7 of 1870)

See under Court-fees and Suits Valuations.

COURT FEES AND SUITS VALUATIONS

—**Court Fees Act (7 of 1870), S. 7 (iv) (c) and (v)** — Suit for declaration and possession of land allotted in partition and for declaration of right of pre-emption — Court-fee payable on market value — *See* Court-fees and Suits Valuations — Mysore Court-fees and Suits Valuation Act (16 of 1958), S. 7 (2) (Aug) 255

—**Mysore Court-fees and Suits Valuation Act (16 of 1958) Ss. 7 (2), 24 (a) and 31** — Suit for declaration and possession of specific land allotted to plaintiff at partition and also for declaring right of pre-emption — Suit is governed by S. 24 (a) and S. 31 — Court-fee payable is on market value of property (Aug) 255

—*S. 24 (a)* — Suit for declaration and possession of land allotted in partition and for declaration of right of pre-emption—Court-fee payable on market value—*See* Court-fees and Suits Valuations — Mysore Court-fees and Suits Valuation Act (16 of 1958), S. 7 (2) Aug 255

—*S. 31* — Suit for declaration and possession of land allotted in partition and for declaration of right of pre-emption — Court-fee payable on market value—*See* Court-fees and Suits Valuations—Mysore Court-fees and Suits Valuation Act (16 of 1958), S. 7 (2) (Aug) 255

—*Sch. II, Art. 11 (U)* — Liquidator trying to reduce to his possession properties mortgaged by Company — Mortgagee resisting his attempts—Liquidator approaching Court for directions—Proper proceeding for liquidator is application made to winding-up Court—*Sch. II, Art. 11 (U)* of Mysore Court-fees and Suits Valuation Act applies—Proper court-fee payable is as for an application and not as for a suit (Sep) 280A

Criminal Procedure Code (5 of 1898), S. 4 (1) (m) — Proceeding under S. 512 is a judicial proceeding — *See* Criminal P. C. (1898), S. 479-A (Apr) 114C

Criminal P. C. (contd.)

—Ss. 160 and 161—Finding of fact—Proof of execution of promissory note is a question of fact (Sep) 269B

—S. 107 — Proceedings under the section regarding land pending before the Magistrate — Magistrate not justified in passing order under S. 145 regarding the same land without issuing notice to respondent — See Criminal P. C. (1898), S. 145 (June) 181B

—S. 107 — Decree passed by Civil Court in respect of land in dispute — Magistrate to take action under S. 107 and not under S. 145 — See Criminal P. C. (1898), S. 145 (Oct) 297

—S. 145 — Magistrate's jurisdiction — Foundation of — Nature of enquiry is quasi civil — Right of parties (May) 160

—Ss. 145, 167 and 561A — Orders under S. 145 passed without notice to respondent — Proceedings under S. 107 relating to same land pending before the Magistrate—Magistrate not justified in passing order under S. 145 — High Court can quash proceedings under S. 561-A (June) 181B

—Ss. 145, 167 — Decree passed by civil Court in respect of certain land in dispute—Magistrate not to exercise his powers under S. 145 but to take action under S. 107 (Oct) 297

—S. 146 (as it stood before its amendment by Amending Act of 1955) and S. 116 — Order under S. 146 (1) to refer dispute as to possession to competent Court—Appellate Revenue Authority under Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (1 of 1955) deciding under S. 25 of the Act question of possession on relevant date, of inam land which had vested in Government, is competent Court (Oct) 315

—S. 155 — Dismissed worker refusing to leave premises — It is offence of criminal trespass — Police has power to take action under the Code or Mysore Police Act — See Constitution of India, Art. 226 (Feb) 51

—S. 156 — Dismissed worker refusing to leave premises — It is offence of criminal trespass — Police have power to take action in the matter under Criminal Procedure Code or Mysore Police Act — See Constitution of India, Art. 226 (Feb) 51

—S. 156 (3) — Report by Police on orders of Magistrate passed after examining the complainant in a cognizable case — Report falls under Ss. 202 and 203 and not under S. 153 (3) — See Criminal P. C. (1898), S. 200 (June) 184

—Ss. 202, 203, 205, 156 (3), 251-A and 252 — Cognizable offence—Complainant examined on oath — Magistrate thereafter directing police to investigate and report — Report

Criminal P. C. (contd.)

falls under Ss. 202 and 203 and not under S. 156 (3) — Procedure for trial is as given in S. 252 and not S. 251-A. Observation in AIR 1954 Mys 129 held overruled by AIR 1964 S C 1541 (June) 184

—S. 202 — Cognizable offence — Complainant examined on oath — Magistrate thereafter directing police to investigate and report — Report falls under Ss. 202 and 203 and not under S. 156 (3) — See Criminal P. C. (1898), S. 200 (June) 184

—S. 203 — Cognisable offence — Complainant examined on oath — Magistrate ordering police to investigate and report, thereafter—Report falls under Ss. 202 and 203 and not under S. 156 (3)—See Criminal P. C. (1898), S. 200 (June) 184

—Ss. 205, 540-A — Exemption of accused from appearance — When can be refused (Mar) 95A

—Ss. 205 and 540-A—Exemption of accused from personal appearance when refused —Status of accused when disregarded (Mar) 95C

—Ss. 205, 540-A and 285—Exemption from appearance granted to accused till stage of recording of evidence — Does not last till duration of enquiry when evidence is to be used under S. 285 (Mar) 95D

—S. 236, Illus. (b) — Contradictory statements — Charge need not say which one is false (Apr) 114A

—Ss. 242, 243, 537 — Prosecution under S. 50, Mysore Police Act — Summons case —Magistrate should state particulars with such clarity as would make accused understand all ingredients of offence — Particulars explained to accused not referring to essential ingredients of offence, namely common gaming house but merely referring to gaming with stakes in some house — Plea of guilty would be only to particulars explained to accused — His act would not be one punishable under S. 50—Omission to explain necessary ingredients, held had resulted in miscarriage of failure of justice—(Mysore Police Act, 1933 (4 of 1934), S. 50) (Sep) 277B

—S. 242—Mysore Police Act, 1933 (4 of 1934), S. 50—Offence under S. 50—Summons case — Omnibus question put to accused — Omission to explain to accused that they were found gaming in a common gaming house — From mere fact that question mentioned something about search warrant, it would not be correct to infer that accused were expressly told that they were gaming in a common gaming house — Legal presumption arising under issue of a proper warrant by Assistant Commissioner of

Criminal P. C. (contd.)

Police cannot be called in aid to fill up lacuna in particulars explained to accused

(Sep) 277C

—S. 243—Particulars of offence not stated with clarity—Illegality not curable—Admission of accused not on enough particulars not sufficient for conviction—See Criminal P. C. (1898), S. 242

(Sep) 277B

—Ss. 247 and 259—Non-cognizable offence—Death of complainant—Magistrate has discretion to substitute fit and willing complainant

(July) 221

—S. 251-A—Cognisable case—Report of police on order of Magistrate passed after examining the complainant on oath—Procedure for trial is as given in S. 252 and not S. 251-A—See Criminal P. C. (1898), S. 200

(June) 184

—S. 252—Cognisable offence—Fresh report by police on order passed by Magistrate after examining the complainant on oath—Procedure for trial is as given in S. 252 and not S. 251-A—See Criminal P. C. (1898), S. 200

(June) 184

—S. 259—Non-cognizable offence—Death of complainant—Magistrate has discretion to substitute fit and willing complainant—See Criminal P. C. (1898), S. 247

(July) 221

—Ss. 288 and 353—Evidence recorded in absence of accused—Whether can be used as substantive evidence under S. 288—S. 288 must be strictly complied with

(Mar) 95B

—S. 288—Exemption from appearance—Duration—See Criminal P. C. (1898), S. 205

(Mar) 95D

—Ss. 342, 364 and 533—Examination of accused by Court—Non-compliance of provision of S. 342—Fatal only if accused is prejudiced

(Apr) 114B

—S. 353—Evidence recorded in absence of accused—Use of, as substantive evidence—Essential—See Criminal P. C. (1898), S. 288

(Mar) 95B

—S. 361—Examination of accused by Court—Non-compliance with S. 342—Fatal only if accused is prejudiced—See Criminal P. C. (1898), S. 342

(Apr) 114B

—Ss. 479-A, 512 and 4 (1) (m)—Proceeding under S. 512 is a 'judicial proceeding' under S. 4 (1) (m)—Statement on oath therein can be subject matter of complaint under S. 479-A

(Apr) 114C

—S. 479-A—Prohibition against user of evidence of a witness examined in a proceeding under S. 512—Has reference only to absconding accused—See Criminal P. C. (1898), S. 512

(Apr) 114D

—S. 479-A—Committal Court too can make the complaint

(Apr) 114E

—S. 512—Proceedings under the section

Criminal P. C. (contd.)

is a judicial proceeding under S. 4 (1) (m)—See Criminal P. C. (1898), S. 479-A

(Apr) 114C

—Ss. 512 and 479-A—Prohibition has reference only to the absconding accused—Statement by witness in S. 512 proceeding—Prosecution of witness for giving false evidence—Statement in S. 512 proceeding can be used against him

(Apr) 114D

—S. 516-A—Section applies only if property is produced before Court during enquiry or trial—Matter still under investigation and charge-sheet not filed—Section is not attracted

(June) 203A

—Ss. 523, 524—Seized property, return of—Question as to who is entitled to possession cannot be decided without having reference to ownership of the property

(June) 203D

—S. 524—Return of seized property—Person entitled to possession—Real owner who lost the property gets possession and not the bona fide purchaser from whom property is seized

(June) 203C

—S. 524—Seized property return of—Question as to who is entitled to possession—Reference as to ownership necessary for its decision—See Criminal P. C. (1898), S. 523

(June) 203D

—S. 526 (as amended by Mysore Amendment Act 13 of 1965)—Sub-Divisional Magistrate not subordinate to Sessions Judge but only to District Magistrate—(Mysore Amendment Act (13 of 1965), S. 6A)

(June) 181A

—S. 533—Non-compliance with S. 342—When fatal—See Criminal P. C. (1898), S. 342

(Apr) 114B

—S. 537—Particulars of offence not stated with clarity—Illegality not curable—Admission of accused not on enough particulars not sufficient for conviction—See Criminal P. C. (1898), S. 242

(Sep) 277B

—S. 540—Limits of discretionary power—Application by Prosecution to issue summons to additional witnesses—That the evidence sought to be proved was for just decision not disclosed in the application—Court is justified in rejecting application to exercise powers under section on such application as it will amount only to filling up the gap in the prosecution case

(Jan) 22

—S. 540A—Exemption of accused from appearance—When can be refused—See Criminal P. C. (1898), S. 205

(Mar) 95A

—S. 540-A—Exemption of accused from personal appearance—When can be refused—Status of accused when disregarded—See Criminal P. C. (1898), S. 205

(Mar) 95C

—S. 540-A—Exemption from appearance granted to accused—Duration—See Criminal P. C. (1898), S. 205

(Mar) 95D

Criminal P. C. (contd.)

—S. 561-A — Magistrate passing orders under S. 145 without issuing notice to respondent, while proceedings under S. 107 respecting the same land pending before him — Magistrate not justified in passing the order — High Court can quash proceedings under S. 561A — *See* Criminal P. C. (1898), S. 145 (June) 181B

Criminal Procedure Code (Amendment) Act (26 of 1955), S. 116—Section 146 (1) prior to amendment in 1955 applied to cases instituted before the Act came into force — *See* Criminal P. C. (1898), S. 146 (as it stood before its amendment by amending Act of 1955) (Oct) 315

DEBT LAWS

—**Mysore Agriculturists Relief Act (18 of 1928), S. 24** — Amendment relating to extended period under S. 24 — Does not involve change of cause of action — *See* Civil P. C. (1908), O. 6, R. 17 (Oct) 293B

—S. 24 (since repealed by Mysore Act 29 of 1966) — In order to avail of the plea of extended limitation under S. 24, the debtor ought to be an agriculturist on the date of transaction and not the suit (Oct) 293A

Dissolution of Muslim Marriages Act (18 of 1939), S. 2 — Suit triable by Munsiff tried by District Judge — No failure of justice — Objection not allowed — *See* Civil P. C. (1908), S. 21 (Aug) 226C

—S. 2, *Proviso (c)* — Opportunity to establish disappearance of impotence — Source of opportunity is no longer rule of Mahomedan law — Opportunity contemplated under *Proviso (c)* does not make it the duty of wife to allow access to husband during period of one year referred, either in her parental house or elsewhere: AIR 1924 All 116 and AIR 1925 All 24, held could no longer be relied on in view of the passing of the Act (Aug) 226B

—S. 2 (v) — Marriage taking place on June, 12, 1960—Impotence of husband established both at time of marriage and when husband was medically examined in July 1960 — Suit for dissolution instituted on October 3, 1960 — Held District Judge was right in deducing that impotence continued at date of institution of suit, since nothing to contrary was established (Aug) 226A

—S. 2 (v) — Incapacity or inability of husband to consummate the marriage is one pattern of impotence — Fact that medical examination showed no constitutional defect

Dissolution of Muslim Marriages Act (contd.) in the organ of husband will not eclipse the proved and established fact that husband was unable to perform the sexual act at the relevant time (Aug) 226D

Easements Act (5 of 1882), S. 15 — Right to take water along artificial course—Absence of contract — Acquisition of right by prescription must be proved (Jan) 6A

—S. 15 — Right to support—Acquisition by prescription — *See* Civil P. C. (1908), O. 39, R. 1 (Nov) 341

EDUCATION

—**Mysore Elementary Education Act (6 of 1941), S. 9**—Levy of education cess on toddy shop rent and tree tax in Bellary District is without authority of law since the Act has not been subsequently extended to Bellary district — Even the notification of sale of excise privileges does not provide for such payment (Jan) 23A

—S. 9 — No education cess on arrack or beer shop rent can be levied (Jan) 23B

—S. 9 and *Schedule* — Education cess on beer and toddy shop rent — Neither leviable under R. 23 nor under any notification under S. 9 and *Schedule* — *See* Mysore Excise Act (5 of 1901), S. 29 (Jan) 23C

—S. 9 — Levy of education cess only in old Mysore area (excluding Bellary district) — Does not violate Art. 14 of the Constitution — *See* Constitution of India, Art. 14 (Jan) 23D

—S. 9 and *Schedule (as amended in 1955)* — Shop rent in respect of toddy shop, arrack shop and beer shop not an excise duty — *See* Mysore Excise Act (21 of 1966), S. 24 (Jan) 23F

—S. 9 and *Schedule (as amended in 1955)* — Essential conditions for continuance of tax imposed under Pre-Constitution Statute — *See* Constitution of India, Art. 277 (Jan) 23G

Employees' Provident Funds Act (19 of 1952), S. 1 (3), (5) — Employment of twenty persons in an establishment even for single day will bring establishment within purview of statute. AIR 1965 Andh Pra 200, Dissented from; (Oct) 300

—S. 1 (3) (a) and (b) — Composite factory engaged in manufacturing and other commercial activities—Test to determine whether it comes within purview of Act indicated (Dec) 355A

—S. 1 (3) (b) — Notification No. GER 346 dated 7-3-1962 under — Is not ultra vires power of Central Government delegated under Cl. (b) (Dec) 355B

Employees' Provident Funds Act (contd.)

—*S. 14B*—Question of recovery of damage and its quantum has to be decided by appropriate Government—Delegation to Regional Provident Funds Commissioner to compute damages in accordance with rigid formula and make demand is illegal (June) 196A

—*S. 14B*—Damages recoverable under the section are in the nature of punishment—It is the duty of appropriate Government to decide in every case which arises before it whether to recover any damages and if so their quantum (June) 196B

—*S. 14B*—Determination under—Defaulter has to be given an opportunity to show cause against determination (June) 196C

—*S. 14B*—Mechanical computation of damages is not envisaged by the provisions (June) 196D

Evidence Act (1 of 1872), S. 65—Certified copy of deed—When admissible—*See* Evidence Act (1872), S. 66 (Mar) 103C

—*Ss. 66 and 65*—Deed of wakf—Plaintiff-mosque claiming possession of property as trustee—Defendant claiming the property as her own and knowledge of execution of wakf-nama by her deceased husband denied—Defendant giving in evidence that she might be in possession of the deed though she was not sure of it—Held, that the case fell under S. 62 (2) and no notice was required to be given and the certified copy of the deed was admissible in evidence (Mar) 103C

—*Ss. 101-104*—Scheme under S. 68C, Motor Vehicles Act (1939)—Proceedings under S. 68D—Objection that scheme does not satisfy criteria in S. 68C—Burden of proof is on objector—*See* Motor Vehicles Act (1939), S. 68C (Oct) 319D

—*S. 112*—Suit for partition by mother on behalf of minor son—Evidence to show that the mother had deserted the defendant 25-30 years back and the minor was born subsequently—Defendant in cross-examination admitting that the plaintiff was his wife—Non-framing of fresh issue, about non-access does not result in wrong decision of the case (Jan) 8C

—*S. 112*—Applicability—Provisions are as much applicable to the offspring of a marriage between Hindus as it is children of spouses professing other faiths (Jan) 17A

—*S. 112*—Nature of onus under—Mere assertion as to non-access not sufficient—Child born during pendency of suit for maintenance—Earlier proceeding by wife for restitution amicably settled—No evidence as to relation between spouses during period the child could have been begotten

Evidence Act (contd.)

produced by husband—Right of maintenance held not forfeited on ground of unchastity—Pendency of suit could not prove non-access (Jan) 17B

—*S. 114, Illus. (e)*—Approval of transport scheme—Presumption—*See* Motor Vehicles Act (1939), S. 68D (July) 215G

—*S. 114, Illus. (e)*—Offence under Mysore Police Act (4 of 1964), S. 80—Search under warrant—Court not putting to accused salient particulars of offence—Presumption under S. 80, Mysore Police Act cannot fill in lacuna in procedure—*See* Criminal P. C. (1898), S. 242 (Sep) 277C

—*S. 115*—Grant of certificate under O. 21, Rule 94, Civil P. C., to representative of deceased purchaser—Estoppel—*See* Civil P. C. (1908), S. 11 (Mar) 73B

—*S. 142*—Scope—Principles governing grant of permission to cross-examine one's own witness—Circumstances under which leading questions may be allowed—*See* Evidence Act (1872), S. 154 (Jan) 12

—*Ss. 154 and 142*—Scope—Principles governing grant of permission to cross-examine one's own witness—Circumstances under which leading questions may be allowed (Jan) 12

HIGH COURT RULES AND ORDERS

—**Mysore High Court Rules (1959), Ch. III, R. 7**—Reference to Division Bench—When competent (Feb) 41D

Hindu Adoptions and Maintenance Act (78 of 1956), S. 18 (3)—Child born during pendency of suit for maintenance—Mere assertion as to non-access not sufficient—Right of maintenance held not forfeited on ground of unchastity—*See* Evidence Act (1872), S. 112 (Jan) 17B

Hindu Law—Adoption—Widow adopting child—Sole survivor's rights during his life, not curtailed by possibility of his wife adopting a son after his death—Doctrine of 'relation-back' not applicable to dispositions, made during lifetime of sole survivor—Rights of adopted son, explained (Feb) 64B

—Adoption—Rights of adopted son—Person making a will as a sole survivor—Son adopted by his widow—Adopted son takes properties of his father subject to dispositions made by the adoptive father by his will—When there is adoption in testator's lifetime, the testator cannot bind the adopted son by disposing property by will (Feb) 64C

Hindu Marriage Act (25 of 1955), S. 9—Proceedings under by husband — Whether could be stopped for arrears of maintenance ordered by the Court—*See* Hindu Marriage Act (1955), S. 24 (Mar) 76

—*Ss. 24, 9*—Application by husband for restitution of conjugal rights under S. 9 — Husband directed to pay maintenance — Maintenance falling in arrears—Court can stop further proceedings under S. 9 to enforce the order or maintenance in its inherent power (Mar) 76

Hindu Succession Act (30 of 1956), S. 7 (2) — Applicability—Hindu family governed by Aliyasanthana law—Suit for partition—*See* Madras Aliyasanthana Act (9 of 1949), S. 36 (5) (May) 175A

—*S. 7 (2)*—Repugnancy between Central and State Act—When arises—*See* Constitution of India, Art. 254 (May) 175B

—*S. 7 (2)* — Partition — Difference in devolution of shares — Anomaly — Remedy — *See* Madras Aliyasanthana Act (1949), S. 36 (5) (May) 175C

HOUSES AND RENTS

—**Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), S. 5 (10) (b) (iv)**—Arrears due—Standard rent payable fixed on 4-8-1959 — Suit for arrears due for years 1953-1954 to 1957-1958 filed on 28-10-1959 — No part of arrears became time barred—*See* Limitation Act (1908), Art. 110 (June) 200

—*S. 11 (1) (e)* — Arrears due — Suit for, after fixing of standard rent—Bar of limitation whether applied — *See* Limitation Act (1908), Art. 110 (June) 200

—**Hyderabad Houses (Rent, Eviction and Lease) Control Act (20 of 1954), S. 10** — Objection regarding want of notice taken for first time in revision — Objection goes to very root — Objection allowed to be raised in revision—*See* Houses and Rents—Hyderabad Houses (Rent, Eviction and Lease) Control Act (20 of 1954), S. 26 (Aug) 252B

—*S. 10 (1)*—Conduct of lessee in claiming title—Does not terminate lease—Lessor gets right by issuing notice under S. 111 (g), T. P. Act — *See* Transfer of Property Act (1952), S. 106 (Aug) 252A

—*Ss. 26, 10*—Eviction application—Revision — Objection regarding failure to issue notice under S. 106, T. P. Act, taken for first time in revision — Objection allowed since it goes to the very root of maintainability of petition for eviction (Aug) 252B

—**Madras Buildings (Lease and Rent Control) Act (25 of 1949), S. 7 (2) (ii) (a)**— Expression 1969 (Mysore) Indexes 2.

Houses and Rents — Madras Buildings (Lease and Rent) Control Act (contd.)

“contrary to any provision of law”—Meaning of — In view of S. 7 of Madras Act and S. 103 (j), T. P. Act, sub-lease cannot be said to be inconsistent with provision of law then in force—*See* Houses and Rents—Mysore Rent Control Act (22 of 1961), S. 21 (f) (Mar) 100

—**Mysore Rent Control Act (22 of 1961), Pre.** — Scheme and object of the Act—*See* Houses and Rents—Mysore Rent Control Act (1961), S. 4 (2) (1) (May) 162 (FB)

—*Ss. 4 (2) and (1), 6, 8 and Pre.* — Mysore Rent Control Rules (1961), R. 3 (ii)—Scheme and object of the Act — Restriction imposed under S. 4 (2) whether absolute — Stage at which Controller can consider the cause shown by landlord regarding requirement of accommodation for self-occupation — R. 3 (ii) held not repugnant to S. 4 (2) (May) 162 (FB)

—*S. 6*—Restriction imposed under S. 4 (2), whether absolute — *See* Houses and Rents—Mysore Rent Control Act (1961), S. 4 (2) (May) 162 (FB)

—*S. 8*—Restriction imposed under S. 4 (2) whether absolute—*See* Houses and Rents—Mysore Rent Control Act (1961), S. 4 (2) & (1) (May) 162 (FB)

—*S. 21 (f)*—Madras Buildings (Lease and Rent Control) Act (25 of 1949), S. 7 (2) (ii) (a)—Expression “contrary to any provision of law,” meaning of—Application for eviction on ground that sub-lease was without concurrence of landlord—Sub-lease created before commencement of operation of part V of Mysore Act—Second clause of S. 21 (f) and not the first would apply and hence case would be governed by Madras Act — In view of S. 7 of Madras Act and S. 103 (j) of T. P. Act, the sub-lease cannot be said to be inconsistent with provision of law then in force (Mar) 100

—**Mysore Rent Control Rules (1961), R. 3 (ii)**—Rule is not repugnant to S. 4 (2)—*See* Houses and Rents—Mysore Rent Control Act (1961), S. 4 (2) (1) (May) 162 (FB)

Hyderabad Houses (Rent, Eviction and Lease) Control Act (20 of 1954)
See under Houses and Rents.

Income-tax Act (11 of 1922), S. 13, Proviso — Income-tax Act (1961), S. 145 (1), Proviso—Assessee not maintaining a day-to-day stock book—Purchases and sales were supported by vouchers and accuracy of accounts was not doubted—Correctness of stock inventory was not challenged on ground that any un-

Income-tax Act (1922) (contd.)

sold item was not shown in it but on infirmity pertaining to valuation—Held, assessments made under proviso to S. 13 and under proviso to sub-s. (1) of S. 145 could not be sustained — Infirmity pertaining to valuation even if true had no materiality in sphere of computation of income (Oct) 298

—S. 37 (1) or (2)—Scope—Field of operation of the two sub-sections is different : AIR 1964 Assam 1 (FB), Dissent. from (Apr) 118C

Income-tax Act (43 of 1961), S. 69A—S. 132 does not purport to substitute provisions of Ss. 147 and 69A—*See* Income-tax Act (1961), S. 132 (Apr) 118E

—S. 132—Scope and validity — Constitution of India, Arts. 14, 19, 21, 31 — S. 132 is neither incompetent nor invalid as infringing any of fundamental rights guaranteed under Arts. 14, 19, 21 and 31 (Apr) 118A

—S. 132—Scope (Apr) 118D
—Ss. 132, 147, 69A — S. 132 does not purport to substitute provisions of Ss. 147 and 69A (Apr) 118E

—S. 132—Orders made under — They are in the nature of interlocutory orders in aid of ultimate order of assessment or reassessment (Apr) 118G

—S. 132—"On the information in his possession had reason to believe"—Meaning of —Extent of judicial review of action of Commissioner (Apr) 118H

—S. 132 — Usefulness or relevancy of documents (Apr) 118I

—Ss. 132 (5), 156, 220—Existing liability referred to in S. 132 (5) — It is a liability in respect of which person concerned is already in default or can be deemed to be in default — He is not deprived of benefit of S. 220 (Apr) 118F

—S. 144 — Best judgment assessment — Mode of determination — *See* Mysore Motor Vehicles (Taxation on Passengers and Goods) Act (10 of 1961), S. 6 (July) 222B

—S. 146(1), Proviso — Assessee not maintaining day to day stock book—Transaction accurate and supported by vouchers — Assessment under Proviso to S. 145 (1) not sustainable — *See* Income-tax Act (1922), S. 13, Proviso (Oct) 298

—S. 147 — S. 132 does not purport to substitute provisions of Ss. 147 and 69A — *See* Income-tax Act (1961), S. 132 (Apr) 118E

—S. 156—Existing liability referred to in S. 132 (5) — *See* Income-tax Act (1961), S. 132 (5) (Apr) 118F

—S. 220—Existing liability—Deprivation of benefit of section — *See* Income-tax Act (1961), S. 132 (5) (Apr) 118F

Industrial Disputes Act (14 of 1947), S. 2 (q) —Dismissed workmen staying on premises refusing to leave them— It does not amount to stay-in-strike but is an offence of criminal trespass — *See* Constitution of India, Art. 226 (Feb) 51

—S. 25 — Dismissed workmen staying on premises and refusing to leave them — It is not stay-in-strike—*See* Constitution of India, Art. 226 (Feb) 51

—S. 28 — Dismissed workmen staying on premises and refusing to leave them — It is not stay-in-strike—*See* Constitution of India, Art. 226 (Feb) 51

—Sch. II, Items 2 and 3 — Mysore State Road Transport Corporation, Standing Order No. 13 (as it stood on 29-10-1964) — Under Standing Order 13, dismissal of employee is not possible unless Dy. General Manager, Bangalore Division holds independent enquiry — It constitutes Dy. General Manager Bangalore Division and not any Dy. General Manager of Corporation as authority by which independent enquiry should be conducted — Therefore, enquiry by Divisional Controller, although his post is equivalent to that of a Dy. General Manager, can be no substitute for enquiry which should be conducted only by Dy. General Manager, Bangalore Division (Aug) 225

—Sch. II, Item 3 — Standing Order requiring particular officer to hold enquiry — Enquiry by another of equivalent rank not valid — *See* Industrial Disputes Act (1947), Sch. II, Item 2 (Aug) 225

—Sch. 2, Item 5 — Dismissed worker in a factory refusing to leave premises—It is not stay-in-strike — It is an offence of criminal trespass — *See* Constitution of India, Art. 226 (Feb) 51

Industrial Employment (Standing Orders) Act (20 of 1946), S. 13A — Enquiry entailing dismissal—Enquiry to be held by particular officer under standing orders — Enquiry by another of equivalent rank is not valid — *See* Industrial Disputes Act (1947), Sch. II, Item 2 (Aug) 225

—Sch. Item 8 — Enquiry entailing dismissal—Enquiry to be held by particular officer under standing orders — Enquiry by another of equivalent rank is not valid— *See* Industrial Disputes Act (1947), Sch. II, Item 2 (Aug) 225

Khadi Village Industries Commission Act. (61 of 1956), Ss. 15, 19 — Constitution of India, Arts. 14, 15—Granting rebate to some and not to others, or giving rebate on one type of goods is not discrimination (Feb) 47

—S. 19—Granting rebate to some and not to others or giving rebate on one type of

Khadi Village Industries Commission Act
(*contd.*)
goods — Not discrimination — *See* Khadi
Village Industries Commission Act (1956),
S. 15 (Feb) 47

Land Acquisition Act (1 of 1894), S. 4 — Pro-
cedure for serving notice under Mys. Act 5 of
1943 — Not identical with procedure pre-
scribed under Land Acquisition Act (1894)
— *See* Municipalities — Mysore City of
Bangalore Improvement Act (1945), S. 16 (2)
(Jan) 1B
— S. 4 — Public notice — Preliminary
notification published — Petitioner after lapse
of six years raising objection, that public
notice as required under S. 4 was not given
— Evidence that some other persons had
objected to such acquisition produced —
Held, that it would be presumed that the
public notice was given (Aug) 240A
— S. 4 — Notification — Service — Personal
service of notification not necessary
(Aug) 240B

— S. 4 — Delay between preliminary notifi-
cation and final notification — Quashing of
(Aug) 240E

— S. 4 (4) (2) — Sub-section only enabling
one — If investigation necessary before
declaration under S. 6 — *See* Land Acquisi-
tion Act (1894), S. 6 (Aug) 240D

— S. 5A — Enquiry under, is necessary only
when objection is produced to proposed
acquisition (Aug) 240C

— S. 6 — Procedure for serving notice
under Mys. Act 5 of 1945 — Not identical
with one prescribed under Land Acquisi-
tion Act, 1894 — *See* Municipalities — Mysore
City of Bangalore Improvement Act (1945),
S. 16 (2) (Jan) 1B

— Ss. 6 and 4 (4) (2) — Scope of
(Aug) 240D

— S. 16 — Once property vested in the
Government, it could not be divested — In-
clusion of land in Corporation also could
not divest (Sep) 263

— S. 30 — Reference under — Person not
a party before Land Acquisition Officer —
Civil Court has no jurisdiction to implead
him as party — AIR 1967 Pat 243, Diss. from
(Oct) 313

Limitation Act (9 of 1908), Art. 110 — Bombay
Rents, Hotel and Lodging House Rates Con-
trol Act (57 of 1947), Ss. 5 (10) (b) (iv) and
11 (1) (e) — Standard rent payable by tenant
finally fixed on 4-8-1959 — Suit for recovery
of arrears of rent for years 1953-54 to 1957-
58 filed on 23-10-1959 — Held that arrears of
rent for entire period become due only after
the standard rent was finally fixed — Hence
no part of arrears became time barred
(June) 200

Limitation Act (1908) (*contd.*)

— Art. 132 — Suit for decree for sale of
mortgage property — Limitation when com-
mences to run — *See* T. P. Act (1882), S. 68
(1) (d) (Jan) 20C

— Art. 132 — Maintenance agreement
between members of family providing for
payment of certain quantity of rice every
year by members of Group A to Group B —
Liability to pay rice charged on income of
properties allotted to A — After partition in
1962, A filing suit for recovery of value of
rice remained unpaid for period from 12-4-
1952 to 13-4-1961 — Prayer for personal
decree and in default for sale of properties
charged — Held that charge on income was
in reality a charge on property — Suit being
for the enforcement of payment money charg-
ed upon immovable property was governed
by Art. 132 — Plaintiff was entitled to a decree
as prayed for (Sep) 265

Limitation Act (36 of 1963), Art. 119 (a) —
Production of award in Court by Arbitrator
— Art. 119 (a) does not apply (Dec) 361

Madras Aliyasanthana Act (9 of 1949), S. 36
— Repugnancy between Central and State
Act — When arises — *See* Constitution of
India, Art. 254 (May) 175B

— S. 36 (5) — Hindu Succession Act (1956),
S. 7 (2) — Hindu family governed by Aliya-
santhana Law — Suit for partition — Preli-
minary decree allotting certain share to
kavaru of defendants 22 to 24 all males —
Deaths of defendants 24 and 23 in 1957 and
1962 respectively — Succession to their
shares — Held governed by S. 7 (2) of Hindu
Succession Act and not by S. 36 (5) of the
Madras Act (May) 175A

— S. 36 (5) — Hindu Succession Act
(1956), S. 7 (2) — Partition — Share allotted
to kavaru of three males — Death of two
members — Difference in devolution of
shares — Anomaly — Remedy lies with the
legislature (May) 175C

**Madras Buildings (Lease and Rent) Control
Act (25 of 1949)**
— *See* under Houses and Rents.

Madras General Sales Tax Act (9 of 1939)
See under Sales Tax.

Madras General Sales Tax Act (1 of 1959)
See under Sales Tax.

**Minimum Wages Act (11 of 1948), S. 20 (2),
Second Proviso** — Power to condone delay —
Authority has plenary power to condone
delay — It is not controlled by limitation
prescribed by Limitation Act for a suit —
AIR 1965 Mad 292, Diss. from (June) 202B

Minimum Wages Act (contd.)

—S. 20 (2), *Second Proviso* — Finding of authority that there was sufficient cause for not making claim within period prescribed — Finding is impervious to criticism in a petition under Art. 227 of Constitution

(June) 202A

Motor Vehicles Act (4 of 1939), S. 43—Direction of State Government—Source of power to State Transport Authority — See Mysore Motor Vehicles Rules (1962), R. 124

(Aug) 242D

—Ss. 43 (1) (i), 68-C, 68-D—Scheme under S. 68C proposing nationalisation of transport services — State Transport Corporation proposing higher charges of fares than charged by private operators—Scheme is not divested of the character of its being economical—Specification of actual fares to be charged in scheme is not necessary—Incorporation of information that fares to be charged are those to be fixed under S. 43 (1) (i)—It is sufficient compliance with S. 68-C, whose purpose is that information should be such as would enable the concerned authority to examine the utility of the scheme from all relevant points of view

(Oct) 319E

—S. 44 — State Transport Authority can issue directions on authority from State Government — See Mysore Motor Vehicles Rules (1962), R. 124

(Aug) 242D

—Ss. 47, 48 (3) — Old operator enjoying priority of timings during long period — Priority should not be defeated by grant of timings to subsequent grantee of permit and prejudice caused to old operator by alteration of timings assigned to new operator is not irrelevant consideration — In opinion of State Transport Appellate Tribunal, R. T. A. taking wrong view that so long as old operator enjoyed priority on one of journeys he could be deprived of priority on the other — Held, opinion rested on relevant considerations and there was no defect or error in opinion so as to justify exercise of jurisdiction under Art. 226 of Constitution

(Aug) 242C

—S. 48 — Grant of stage carriage permit based on relative merits—High Court will not interfere — See Constitution of India, Art. 226

(Sep) 266A

—S. 48 (3) — Stage carriage permit, grant of — New grantee given timings to the prejudice of old permit holder—State Transport Appellate Tribunal forming opinion on relevant consideration—No upsetting in writ jurisdiction deemed necessary—See Motor Vehicles Act (1939), S. 47

(Aug) 242C

—Ss. 63, 64A — Power to add conditions to permit to be counter-signed is distinct

Motor Vehicles Act (contd.)

from act of counter-signature and that power continues to be exercisable even in case falling within proviso to S. 63 (3) — Regional Transport Authority assigning timings to inter-State permit, assignment of timings being one condition of permit—Held, revision petition could be presented under S. 64-A

(Aug) 242A

—S. 63 — Scope—Provisions do not have the effect of keeping the permit in abeyance unless the authority in other State counter-signs the permit

(Sep) 266B

—S. 64A—Assignment of timing is condition in permit — Revision maintainable — See Motor Vehicles Act (1939), S. 63

(Aug) 242A

—S. 64-A — Revisional jurisdiction, when can be exercised

(Aug) 242B

—Ss. 68, 68C, 68D — Mysore Transport Undertaking Rules (1963), Rr. 6, 7—Scheme under S. 68C — Right to produce objection thereto under S. 68D, is available not only to existing operators but to every person affected by scheme — Particulars under R. 6 are to be given by existing operators only

(Oct) 319C

—Ss. 68, 68C — Mysore Transport Undertaking Rules (1963), R. 3 (k) — Scheme for nationalisation of transport services under S. 68C—Timings in accordance with which stage carriage service is to be operated — Specification of, is not required

(Oct) 319M

—Ss. 68B, 68C, 68D — Section 68B is not unconstitutional

(Oct) 319K

—S. 68-C — Exclusive operation by corporation on notified route—Fact that passenger travelling on other route has, on overlapping portion of notified route to travel in State bus — Does not amount to lack of co-ordination

(July) 215B

—S. 68-C — Approved scheme whether economical—Fare charged by operator is not a decisive factor

(July) 215C

—S. 68-C—Exclusive operation on notified routes—Approved scheme, whether efficient — Performance of corporation in another area is not of relevance

(July) 215D

—S. 68-C — Opportunity given to seek modification in scheme to persons making representation — Modification not placed before Chief Minister — Approved Scheme cannot be denounced by High Court under Art. 226—See Constitution of India, Art. 226

(July) 215E

—Ss. 68-C, 68-D—Chief Minister according approval to scheme under S. 68D—Fact that he was determined to implement policy of nationalisation of transport services does not amount to bias on his part

(July) 215F

Motor Vehicles Act (contd.)

—Ss. 68.C, 68.D — Nature of proceeding under S. 68.C—Materials on which opinion under S. 68.C is formed — Disclosure of is not required by S. 68.C or S. 68.D—Enquiry under S. 68D in regard to draft scheme prepared under S. 68.C relating to nationalisation of transport services — Failure to produce evidence either in support or condemnation thereof—Approval of scheme cannot be assailed on ground that production of grounds supporting opinion under S. 68C was not directed (Oct) 319A

—Ss. 68.C, 68.D—Proceedings under S. 68D —Whether scheme regarding nationalisation of transport services satisfies four attributes required under S. 68C—Burden of establishing that it does not is on objector—State Transport Corporation is under no duty to demonstrate that it does so (Oct) 319D

—S. 68.C—Scheme incorporating information that rates to be charged would be fixed under S. 43 (1) (i) — Sufficient compliance with S. 68.C — See Motor Vehicles Act (1939), S. 43 (1) (i) (Oct) 319E

—S. 68.C — Nationalisation of transport services — Some old routes operated by private operators remaining outside the nationalised service — This does not amount to lack of co-ordination (Oct) 319F

—S. 68.C—Scheme under, objections to—Any person affected has right to object — See Motor Vehicles Act (1939), S. 68 (Oct) 319G

—Ss. 68C, 68E — Scheme regarding nationalisation of transport services—Disparity between maximum and minimum number of vehicles therein — When can invalidate the scheme (Oct) 319H

—Ss. 68C, 68D (3), proviso, 68F (2) (iii) — Expression “such scheme which relates to an inter-State route” in proviso to S. 68D(3) —Meaning—Inter-State route when becomes notified route — Scheme for nationalisation of transport services — All notified routes within one State — Previous approval of Central Government is not necessary—Declaration by Chief Minister as to policy of Government to nationalise all routes in State—Cannot be equated with bias (Oct) 319I

—S. 68C — Scheme for nationalisation of transport services—Protection given by first amendment to constitution is available to restriction placed by such scheme — See Constitution of India, Art. 19 (1) (g) and (6) (Oct) 319J

—S. 68C — Power under S. 68.B — Not unregulated — Subject to guidance provided by Ss. 68.C and 68.D — See Motor Vehicles Act (1939), S. 68B (Oct) 319K

Motor Vehicles Act (contd.)

—S. 68C — Scheme for nationalisation of transport services—Not illegal for not specifying proposed timings of services — See Motor Vehicles Act (1939), S. 68 (Oct) 319M

—S. 68D — Approval of scheme under — Scope of enquiry—Order when open to challenge (July) 215A

—S. 68D—Opportunity given to seek modifications in scheme to persons making representations — Modifications not placed before Chief Minister — Approved scheme cannot be denounced under Art. 226—See Constitution of India, Art. 226 (July) 215E

—S. 68.D — Approval of scheme under S. 68D—Fact that Chief Minister was determined to implement nationalisation of transport services does not amount to bias on his part — See Motor Vehicles Act (1939), S. 68.C (July) 215F

—S. 68D — Approval of scheme under — Presumption — Evidence Act (1872), S. 114, Illus. (e) (July) 215G

—S. 68D—Material on which opinion was formed under S. 68C—Need not be disclosed under S. 68.D—See Motor Vehicles Act (1939), S. 68C (Oct) 319A

—S. 68D—Adjudication under—Question whether State Transport Corporation does not have equipment or finance to carry on proposed scheme regarding nationalisation of transport services is irrelevant—Comparison between Corporation's past record and that of private operators has no relevance either (Oct) 319B

—S. 68.D — Approval of Scheme of nationalisation—When can be quashed — See Constitution of India, Art. 226 (Oct) 319C

—S. 68.D — Proceedings under—Whether scheme of nationalisation of transport services satisfies criteria in S. 68.C—No onus on State Transport Corporation to prove it does—Burden is on objector to prove that it does not — See Motor Vehicles Act (1939), S. 68C (Oct) 319D

—S. 68.D — Information needed for decision under — Authority should be able to examine utility of scheme from all angles — See Motor Vehicles Act (1939), S. 43 (1) (i) (Oct) 319E

—S. 68.D — Right to object to scheme under S. 68C — Any person affected can object — See Motor Vehicles Act (1939), S. 68 (Oct) 319G

—S. 68.D—Power under S. 68.B—Not unregulated or uncanalised — Subject to guidance provided by Ss. 68.C and 68.D — See Motor Vehicles Act (1939), S. 68B (Oct) 319K

Motor Vehicles Act (contd.)

—S. 68-D — Provisions of section are not repugnant to provisions of Art. 14—*See* Constitution of India, Art. 14 (Oct) 319L

—S. 68-D (3)—Scheme for nationalisation — All notified routes under, inside the State — Previous approval of Central Government, not necessary — *See* Motor Vehicles Act (1939), S. 68-C (Oct) 319I

—S. 68-E—Scheme for nationalization — Disparity between maximum and minimum number of vehicles — When can invalidate scheme — *See* Motor Vehicles Act (1939), S. 68C (Oct) 319H

—S. 68-F (2) (iii)—Scheme for nationalisation — State Government has power to render an inter-State permit ineffective as regards routes within the State — *See* Motor Vehicles Act (1939), S. 68C (Oct) 319I

MUNICIPALITIES

—City of Bangalore Improvement Act (5 of 1945), S. 16 (2)—Procedure under for serving notice — Not identical with procedure prescribed under Land Acquisition Act (1894)—No discrimination between persons governed by S. 16 (2)—Section 16 (2) is not unconstitutional (Jan) 1B

—City of Bangalore Municipal Corporation Act (69 of 1949), S. 3 (9) — Land acquired by Government included in Municipal Corporation — Ownership of Government not affected — *See* Land Acquisition Act (1894), S. 16 (Sep) 263

—S. 3-B — *See* Land Acquisition Act (1894), S. 16 (Sep) 263

—Ss. 97, 98 (1), 130 and Sch. III, Part V, Cl. VIII — Scope — Levy of octroi duty on animals and goods—Procedure under S. 98 (1) must be followed — Object of procedure indicated — Levy of octroi without following procedure is without authority of law and violative of Art. 265 of the Constitution — Bangalore City Municipality — Notification dated 4-4-1967 imposing octroi on additional goods held ultra vires (May) 167A

—S. 98 (1) — Levy of octroi duty on animals and goods — Procedure under S. 98 (1) must be followed—*See* Municipalities—City of Bangalore Municipal Corporation Act (69 of 1949), S. 97 (May) 167A

—S. 130 — Non-compliance with procedure under S. 98 (1)—Not cured by the citation of S. 130 in notification levying octroi duty on goods—*See* Municipalities—City of Bangalore Municipal Corporation Act (69 of 1949), S. 97 (May) 167A

—Sch. III, Part V, Cl. VIII — Scope—Levy of octroi duty on animals and goods — *See*

Municipalities — City of Bangalore Municipal Corporation Act (contd.)

Municipalities—City of Bangalore Municipal Corporation Act (69 of 1949), S. 97 (May) 167A

—Mysore Municipalities Act (22 of 1964), S. 17 (2) — Election of Councillors — Fresh election can be held before vacancy occurs (Mar) 78A

—Mysore Municipalities (Election of Councillors) Rules, 1965, R. 8 — Elections—Returning Officer issuing election calendar — Mistake in calendar rendering the election illegal—New election calendar published — Held, it was competent for Returning Officer to issue fresh election calendar (Mar) 78B

Mussalman Wakf Validating Act (6 of 1913), S. 3—Wakf by Hanafi Mussalman in favour of Mosque—No possession given—Reservation made for executant during his life time — Wakf is valid. AIR 1927 All 255, Diss. (Mar) 103D

Mysore Absorption of Instructors and Assistant Instructor in Tailoring Rules (1965), R. 2 — Rule does not violate Arts. 14 and 16 of Constitution — *See* Constitution of India, Art. 14 (Feb) 59

Mysore Agriculturists Relief Act (18 of 1928)
See under Debt Laws.

Mysore Civil Service Rules
See under Civil Services.

Mysore Court-fees and Suits Valuation Act (16 of 1958)
See under Court-fees and Suits Valuations.

Mysore Education Department Services (Technical Education Department) Special Recruitment) Rules (1967)
See under Civil Services.

Mysore Elementary Education Act (6 of 1941)
See under Education.

Mysore Excise Act (5 of 1901), S. 29 — Rules regulating sale of excise privileges, R. 23 — Levy of education cess on beer shop rent, toddy shop rent, tree tax and tree rent — Such cess is neither leviable under R. 23 nor under any notification (Jan) 23C

Mysore Excise Act (21 of 1966), S. 24—Excise duty—Shop rent on toddy shop, arrack shop and beer shop is not a duty of excise—Levy of education cess is however valid since it is not confined to duties of excise only—(1966) 1 Mys L J 554, held reversed in AIR 1967 SC 1512 (Jan) 23F

Mysore Excise Act (contd.)

—S. 24—Shop rent under the Act is not a tax—See Constitution of India, Art. 265

(Jan) 23J

—S. 24—Payment of education cess on—Toddy shop, arrack shop, beer shop under the Act—Cess declared void—Parties are entitled to refund—See Contract Act (1872), S. 72

(Jan) 23K

Mysore Existing Law (Construction of References to Values) Act (12 of 1957), S. 3—Conversion is not of rate of tax but of aggregate amount of tax in old coinage to new coinage. (1960) 38 Mys L J 567 held no longer good law in view of AIR 1965 SC 560—See Coinage Act (1906), S. 14 (3)

(Aug) 230A

Mysore Government Servants (Seniority) Rules (1957)

See under Civil Services.

Mysore High Court Rules (1959)

See under High Court Rules and Orders.

Mysore Irrigation Act (1 of 1932), Ss. 8 (1), 52—Mysore Revenue Appellate Tribunal Act (24 of 1957), S. 4 (4)—Decision or order of Chief Engineer in appeal under S. 8 (1)—Is subject to revisional jurisdiction under S. 52 which can be exercised by Revenue Appellate Tribunal

(Sep) 270

—S. 52—Revisional jurisdiction under—Jurisdiction transferred to Revenue Appellate Tribunal—See Mysore Irrigation Act (1 of 1939), S. 8 (1)

(Sep) 270

Mysore Land Revenue Act (12 of 1964), S. 103—Decision of revenue authority—Finality—See Civil P. C. (1908), O. 39, R. 1. (Nov) 337

Mysore Motor Vehicles Rules (1962), R. 124—State Transport Authority can issue direction only if it is founded on direction by Government under S. 43, Motor Vehicles Act (1939)

(Aug) 242D

Mysore Motor Vehicles (Taxation on Passengers and Goods) Act (10 of 1961), S. 6—Best judgment assessment—Mode of—Tax Officer must have some material before him—Determination of tax on basis of erroneous presumption that public carrier had carried its full complement of goods cannot be sustained—(Income Tax Act (1961), S. 144)

(July) 222B

Mysore Municipalities Act (22 of 1964)

See under Municipalities.

Mysore Municipalities (Election of Councilors) Rules (1965)

See under Municipalities.

Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (1 of 1955)

See under Tenancy Laws.

Mysore Police Act, 1963 (4 of 1964), S. 55—Dismissed worker of factory refusing to leave premises—It is offence of criminal trespass—Police can take action in the matter—See Constitution of India, Art. 226

(Feb) 51

—S. 80—Offence under—Playing cards like 'Ander Bahar' with stakes in a private house by some private individuals is not covered by S. 80

(Sep) 277A

—S. 80—Salient particulars not put to accused—Presumption under S. 80 cannot fill up lacuna in procedure—See Criminal P. C. (1898), S. 242

(Sep) 277B

—S. 80—Offence under—Mysore Police Act (4 of 1964), S. 80—Search under warrant—Court not putting to accused salient particulars of offence—Presumption under S. 80, Mysore Police Act cannot fill in lacuna in procedure—See Criminal P. C. (1898), S. 242

(Sep) 277C

Mysore Rent Control Act (22 of 1961)

See under Houses and Rents.

Mysore Rent Control Rules (1961)

See under Houses and Rents.

Mysore Revenue Appellate Tribunal Act (24 of 1957), S. 4 (4)—Revisional jurisdiction—Transfer of to Revenue Appellate Tribunal—Effect—See Mysore Irrigation Act (1 of 1939), S. 8 (1)

(Sep) 270

Mysore Sales Tax Act (25 of 1957)

See under Sales Tax.

Mysore Sales Tax Rules

See under Sales Tax.

Mysore State Road Transport Corporation Standing Order No. 13 (as it stood on 29-10-1964)—Standing order requiring particular officer to hold enquiry—Enquiry by another of equivalent rank not valid—See Industrial Disputes Act (1947), Sch. II, Item 2

(Aug) 225

Mysore Transport Undertaking Rules (1963), R. 3 (k)—Non-specification of proposed timings of services in the scheme for nationalisation—Does not contravene provisions of the rule—See Motor Vehicles Act (1939), S. 63

(Oct) 319M

—R. 6—Particulars under R. 6 to be given by existing operators only—See Motor Vehicles Act (1939), S. 63

(Oct) 319G

—R. 7—Particulars under R. 6 to be given by existing operators only—See Motor Vehicles Act (1939), S. 63

(Oct) 319G

Mysore Village Panchayats and Local Boards Act (10 of 1959)

See under Panchayats.

Mysore Village Panchayats (Election of Chairman and Vice Chairman) Rules (1959)
See under Panchayats.

Negotiable Instruments Act (26 of 1881), S. 4
— Document not correctly executed — Not a promissory note — No presumption in favour — See Negotiable Instruments Act (1881), S. 118 (Sep) 269A
— S. 4 — Proper execution of promissory note is question of fact—See Civil Procedure Code (1908), Ss. 100-101 (Sep) 269B
— Ss. 118 and 4 — Presumption arises only when there is an executed promissory note — Document not executed is not a promissory note and no presumption can arise (Sep) 269A

PANCHAYATS

— **Mysore Village Panchayats and Local Boards Act (10 of 1959), S. 3 (2)** — Mysore Village Panchayats Declaration of Villages (Procedure) Rules (1959) — Action under S. 3 (2) — Consultation with Taluka Board is not mandatory but only directory. (1963) 1 Mys L J 150, **Overruled** (May) 149A (FB)
— S. 3 (1) (2) — Notification under S. 3 (1) constituting two villages out of existing one — No prior declaration under S. 3 (2) that existing village has ceased to exist — Notification is illegal. (Per Division Bench) (May) 149C (FB)
— S. 3 (2) — Action under the section is an administrative act — See Constitution of India, Art. 226 (May) 149B (FB)
— S. 30 (1) — Want of quorum during scrutiny — Declaration of result of election — See Panchayats — Mysore Village Panchayats and Local Boards Act (10 of 1959), S. 37 (Sep) 275
— Ss. 37 and 30 (1) — Mysore Village Panchayats (Election of Chairman and Vice Chairman) Rules (1959), Rr. 7 to 10 — Election of Chairman and Vice-Chairman — Meeting for — Quorum — Necessity of — One candidate filing nomination for post of Chairman and another for Vice-Chairman — Want of quorum during scrutiny — Candidates cannot be declared elected uncontested (Sep) 275
— **Mysore Village Panchayats (Election of Chairman and Vice-Chairman) Rules (1959), Rr. 7 to 10** — Scope of — If quorum necessary — See Panchayats — Mysore Village Panchayats and Local Boards Act (10 of 1959), S. 37 (Sep) 275

Penal Code (45 of 1860), S. 193 — Prosecution under — Contradictory statements — Prosecution need not prove which one is false— See Criminal P. C. (1898), S. 236, Illus. (h) (Apr) 114A

Penal Code (contd.)

— S. 193 — Proceeding under S. 512 Criminal P. C. — Offence can relate to statement made therein — See Criminal P. C. (1898), S. 479-A (Apr) 114C

— S. 193 — Statement in S. 512 proceedings can be used against accused — See Criminal P. C. (1898), S. 512 (Apr) 114B

— S. 441 — Dismissed workmen staying on premises and refusing to leave — It is offence of criminal trespass — See Constitution of India, Art. 226 (Feb) 51

— S. 447 — Dismissed workmen staying on premises and refusing to leave — It is offence of criminal trespass — See Constitution of India, Art. 226 (Feb) 51

Registration Act (16 of 1908), S. 17 (2) (vi) — Proceedings under O. 21, R. 94, Civil P. C. for issue of sale certificate in respect of property 'A' — Compromise decree passed in suit filed by surviving partner against widow of deceased partner in respect of firm's property — Surviving partner agreeing to give up right in respect of property 'A' — Suit in which compromise decree was passed must be held to have included property 'A' — Hence such decree is exempted from registration under S. 17 (2) (vi) and is admissible in evidence in proceedings under O. 21, R. 94 (Mar) 73C

— S. 58 — Registration of document — Proof of execution — See Registration Act (1908), S. 60 (Mar) 103B

— S. 58 (1) (c) and (2) — Power of Registrar under S. 72 — He cannot impose payment of consideration as condition precedent for registration — See Registration Act (1908), S. 72 (Dec) 360

— S. 59 — Registration of document — Proof of execution — See Registration Act (1908), S. 60 (March) 103B

— S. 59 — Procedure under section has to be followed by Registrar — See Registration Act (1908), S. 72 (Dec) 360

— Ss. 60, 58 and 59 — Registration of document — Proof of execution (March) 103B

— S. 60 — Registrar acting under S. 72 has to follow procedure under S. 60 — See Registration Act (1908), S. 72 (Dec) 360

— Ss. 72, 75 (1), (2), 58 (1), (c) and (2), 59 and 60 — Powers of District Registrar under S. 72 — Powers same as that of original authority — He cannot impose payment of consideration as a condition precedent for registration (Dec) 360

— S. 75 (1) and (2) — Registrar cannot impose payment of consideration as condition precedent for registration — See Registration Act (1908), S. 72 (Dec) 360

Representation of the People Act (43 of 1950), S. 30 — Election of respondent cannot be

Representation of the People Act (contd.)
 challenged as void on ground that electoral rolls are incorrectly or irregularly prepared
 — See Constitution of India, Art. 329 (b) (March) 84A

Representation of the People Act (43 of 1951),
 Ss. 62 (1) and 100 (1) (d) (iii) — Right to vote under S. 62 (1) — Improper refusal of right — Is not a sufficient ground under S. 100 (1) (d) (iii) to declare election void — Further proof that election is materially affected thereby is necessary (March) 84B
 — S. 100 (1) (d) (iii) — Improper refusal of right to vote — No sufficient ground to declare an election void — See Representation of the People Act (1951), S. 62 (1) (March) 84B
 — S. 100 (1), (d) (iv) — Correctness of electoral rolls cannot be challenged in an election petition under Art. 329 — See Constitution of India, Art. 329 (b) (March) 84A

SALES TAX

— **Madras General Sales Tax Act (9 of 1939),** S. 3 — Rate specified in old coinage—Conversion is not of rate but of aggregate tax — (1960) 33 Mys L J 567, No longer good law in view of AIR 1965 S C 560—See Coinage Act (1906), S. 14 (3) (Aug) 230A
 — S. 18-A — Bar created by section operates only against person seeking cancellation or modification of assessment—Suit by purchaser for recovery of tax collected from him by registered dealer is not barred by the section (Aug) 230B
 — **Madras General Sales Tax Act (1 of 1959),** S. 4, Proviso — Provision correspond to Mysore Sales Tax Act (25 of 1957), S. 5 (4), Proviso — See Sales Tax — Mysore Sales Tax Act (25 of 1957), S. 5 (4), Proviso (Oct) 303A

— **Mysore Sales Tax Act (25 of 1957),** S. 2 (1) (b) — Principal carrying on business through agent is "dealer"—See Sales Tax — Mysore Sales Tax Act (25 of 1957), S. 11 (Oct) 309
 — S. 5 — Charging section — Does not exclude principal who carries business through agent — See Sales Tax — Mysore Sales Tax Act (25 of 1957), S. 11, First Proviso (Oct) 309
 — S. 5 (4), Proviso — S. 38, Rules under, Mysore Sales Tax Rules, R. 39-A (3)—Refund of sales tax claimable under S. 5 (4), Proviso — R. 39-A (3) prescribing period of limitation is beyond competence of State Government and is *ultra vires* S. 5 (4), Proviso — Right to refund under S. 5 (4), Proviso is absolute — Conditions authorised are those which regulate refund and not conditions

Sales Tax—Mysore Sales Tax Act (contd.)
 which result in extinguishment of right to refund which legislature has created under the proviso (Oct) 303A

— S. 5 (4), Proviso — S. 38, Rules under, Mysore Sales Tax Rules, R. 39-A — Refund of sales tax claimable under S. 5 (4), Proviso — Requirement that application for refund should be made in prescribed form is merely directory and not mandatory (Oct) 303B

— Ss. 11, First Proviso, 2 (1) (b) and 5 — Words 'the agent shall be assessed' in first proviso to S. 11 — Liability of principal is not excluded (Oct) 309

— S. 12-A — Section void—Offends Art. 14 of Constitution — See Constitution of India, Art. 14 (Oct) 295

— S. 22 (prior to amendment by Mysore Act 3 of 1966) — Right of appeal — Incongruity between cases dealt with by Commissioner and Deputy Commissioner pointed out—See Constitution of India, Art. 14 (Oct) 295

— S. 38, Rules under — Mysore Sales Tax Rules, R. 39-A (3) — Limitation prescribed is beyond competence and *ultra vires* — See Sales Tax — Mysore Sales Tax Act (25 of 1957), S. 5 (4), Proviso (Oct) 303A

— **Mysore Sales Tax Rules, R. 39-A (3)**—Rule *ultra vires* — See Sales Tax — Mysore Sales Tax Act (25 of 1957), S. 5 (4), Proviso (Oct) 303A

States Reorganisation Act (37 of 1956), S. 115 — Final seniority list prepared by Government of India — Rank and position reduced from provisional inter-State seniority list—Person promoted by selection — Cannot be reverted on basis of final list—See Constitution of India, Art. 310 (Oct) 306

— S. 115 — Government taking over management of private Trust fund and treating its employees as Government servants—Services rendered by them in Trust fund are to be treated as part of services rendered under Government — See Constitution of India, Art. 311 (2) (Nov) 346A

— S. 115—Allotment of physical instructors from five regions to new State of Mysore on reorganisation — Assignment of higher pay scale for allottees from one State and lower pay scale for allottees from another held discriminatory and unjustified — See Constitution of India, Art. 14 (Nov) 343

— S. 115—Preparation of inter-State seniority list—Criteria for equation of posts laid down in conference of Chief Secretaries of

States Reorganisation Act (contd.)

States, 1956 — Court can consider whether those criteria have been followed while preparing final inter-State seniority list—Held criteria not followed—Seniority list set aside. AIR 1969 Punj 34, held not good law in view of AIR 1968 S C 850 (Dec) 362

—S. 116 — Government taking over management of private Trust fund and treating its employees as Government servants—Services rendered by them in Trust fund are to be treated as part of services rendered under Government—See Constitution of India, Art. 311 (2) (Nov) 346A

—S. 116—Allotment of physical instructors from five regions to new State of Mysore on reorganisation — Assignment of higher pay scale for allottees from one state and lower pay scale for allottees from another held discriminatory and unjustified—See Constitution of India, Art. 14 (Nov) 348

—S. 116 (1)—Deemed to have been appointed—Meaning (Feb) 41A

Succession Act (39 of 1925), S. 2 (h)—Oral will—On death of husband, his wife acting on instructions of her husband giving away some properties to a relation under a deed—Deed mentioning motive of transfer being the wish of deceased husband—Wife acting against her own interest by giving away property which she could alienate for necessity — Oral will by deceased husband can be inferred (Feb) 64A

TENANCY LAWS

—Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (1 of 1955), S. 5—Decision by Collector under—Appellate Tribunal deciding appeal under S. 28 is a Court—See Criminal P. C. (1898), S. 146 (as it stood before its amendment by amending Act of 1955) and S. 116 (Oct) 315

—S. 9A—Decision by Collector under—Appellate Tribunal deciding appeal under S. 28 is a Court — See Criminal P. C. (1898), S. 146 (as it stood before its amendment by amending Act of 1955) and S. 116 (Oct) 315

—S. 28—Appellate authority deciding case under S. 28 is "Court"—See Criminal P. C. (1898), S. 146 (as it stood before its amendment by amending Act of 1955) and S. 116 (Oct) 315

Tort — Negligence — Vicarious liability — Relationship of master and servant — Not dependent on instrumentality through which selection of servant is made—Suit for compensation for negligence of driver—Not

Tort (contd.)

invalid for non-joinder of authority selecting him for appointment (May) 158

Trade Unions Act (16 of 1926) (as amended by Act of 1947), S. 2 (1)—Act of dismissed workmen of remaining on premises and refusing to leave—Does not amount to "stay-in-strike" or "sit-down-strike" — See Constitution of India, Art. 226 (Feb) 51

Transfer of Property Act (4 of 1882), S. 58—Right of sale without intervention of Court — Incorporated Company can exercise such right — See T. P. Act (1882), S. 69 (Sep) 280D

—S. 58—Right of sale when and by whom can be exercised without intervention of Court — See T. P. Act (1882), S. 69 (Sep) 280E

—S. 58 (e)—English mortgage—Nature of — Mortgagee is entitled to immediate possession and to retain possession until he is repaid (Sep) 280F

—S. 67A—Section incorporates no prohibition against institution of suit on one of mortgages in case where no objection to form of suit is taken on earlier occasion (Jan) 20A

—S. 68 (1) (d) — Mortgagee's right to sue for mortgage-money—Right when acquired (Jan) 20B

—S. 68 (1) (d) — Limitation Act (1908), Art. 132—Suit for decree for sale of mortgage property—Limitation when commences to run (Jan) 20C

—S. 69—Power to sell—Clause to buy in — Clause cannot be relied upon to authorise mortgagee-bank to buy mortgaged property for themselves (Sep) 280C

—Ss. 69, and 58 — Right of sale without intervention of Court—Who can exercise—Right can be exercised not only by living person but also by fictitious person like incorporated company (Sep) 280D

—Ss. 69 and 58—Right of sale without intervention of Court—Against whom can be exercised—Property of Company mortgaged under mortgage-deed to which Directors joining as sureties—Held, Directors who merely joined as sureties were not mortgagors and, therefore, the right of sale could be exercised against the mortgagor-company (Sep) 280E

—Ss. 106 and 111 (g)—Hyderabad Houses (Rent, Eviction and Lease) Control Act (20 of 1954), S. 10 (1)—Application for eviction of tenant on ground of arrears of rent — Month to month tenancy — Claim based on contractual tenancy — Application, held, could not be maintained in absence of deter-

T. P. Act (contd.)

mination of tenancy by a notice to quit issued under S. 106, T. P. Act—Conduct of claiming title in himself on part of lessee would not ipso facto put an end to lease enabling landlord to obtain possession — It would confer right on lessor to determine lease by notice as required by S. 111 (g), T. P. Act (Aug) 252A

—S. 106 — Objection regarding want of notice taken for first time in revision — Objection goes to very root — Objection allowed to be raised in revision—See Houses and Rents—Hyderabad Houses (Rent, Eviction and Lease) Control Act (20 of 1954), S. 26 (Aug) 252B

—S. 108 (J)—Sub-lease—Validity — See Houses and Rents — Mysore Rent Control Act (22 of 1961), S. 21 (F) (March) 100

—S. 111 (g)—Conduct of lessee in claiming title—Does not terminate lease—Lessor gets right by issuing notice under S. 111 (g) —See Transfer of Property Act (1882), S. 106 (Aug) 252A

Words and Phrases—"Coercion" — Meaning of—See Contract Act (1872), S. 72 (Aug) 230C

—"Court" — Appellate revenue authority acting under S. 28 of Mysore Act (1 of 1955)

—"Court" — See Criminal P. C. (1898), S. 146 (as it stood before its amendment by amending Act of 1955) and S. 116 (Oct) 315

—"Deemed to have been appointed"—See States Reorganisation Act (1956), S. 116 (1) (Feb) 41A

Words and Phrases (contd.)

—"Floating charge" — Meaning of — See Companies Act (1956), S. 293 (Sep) 280G

—"Local candidate"—See Civil Services—Mysore Civil Services Rules (1957), R. 8 (27-A) (June) 186A

—Word "shall" meaning of — See Civil P. C. (1908), O. 41, R. 27 (March) 111A

—Expression "such scheme which relates to an inter-State route" in proviso to S. 68-D (3), Motor Vehicles Act — Meaning — See Motor Vehicles Act (1939), S. 68-C (Oct) 319I

—"Undertaking" — Meaning of — See Companies Act (1956), S. 293 (Sep) 280G

Working Journalists (Conditions of Service) and Miscellaneous Provisions Act (45 of 1955), S. 17 — Working Journalists (Taxation of Rates and Wages) Act (1958), S. 9 — Claim for back wages by working journalist — Cessation of relationship of employer and employee at the time of claim does not bar application of those provisions (May) 171

Working Journalists (Fixation of Rates and Wages) Act (29 of 1958), S. 9 — Claim for back wages by working journalist — Not barred by cession of relationship of employer and employee at the time of claim — See Working Journalists (Conditions of Service and Miscellaneous Provisions) Act (1955), S. 17 (May) 171

MYSORE SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss.=Dissented from in; Not F.=Not followed in; Over.=Overruled in; Revers.=Reversed in.

Arms Act (54 of 1959)

—S. 17 (3)—AIR 1967 Mys 238—Diss. AIR 1969 Assam 50A (May) (FB).

Coinage Act (3 of 1906)

—S. 14 (3)—(1960) 38 Mys L J 567—Held no longer good law in view of AIR 1965 S C 560, AIR 1969 Mys 230A (Aug).

Constitution of India

—Art. 14 — AIR 1962 Mys 218 — Revers. AIR 1969 S C 477B (June).

—Art. 162—AIR 1961 Mys 210—Diss. AIR 1969 Punj 34B (Feb).

—Art. 226—AIR 1968 Mys 253 — Revers. AIR 1969 S C 408C (May).

Constitution of India (contd.)

—Art. 245 — AIR 1962 Mys 218—Revers. AIR 1969 S C 477B (June).

—Art. 246—AIR 1962 Mys 218 — Revers. AIR 1969 S C 477B (June).

—Art. 254 — AIR 1962 Mys 218—Revers. AIR 1969 S C 477B (June).

—Art. 309—AIR 1961 Mys 210—Diss. AIR 1969 Punj 34B (Feb).

—Art. 309, Proviso—AIR 1963 Mys 265—Over.—AIR 1969 S C 118A (Jan).

—Art. 309, Proviso—AIR 1965 Mys 25 — Over. AIR 1969 S C 118A (Jan).

—Sch. 7, List. 2, Entry 41—AIR 1961 Mys 210 — Diss. AIR 1969 Punj 34B (Feb).

Constitution of India (contd.)

- Sch. 7, List 3, Item 42 — AIR 1962 Mys 218 — **Revers.** A I R 1969 S C 477B (June).

Contract Act (9 of 1872)

- S. 2 (b) — Reg. Appeal No. 231 of 1960, D/- 19.6.1963 (Mys) — **Revers.** A I R 1969 S C 1157 (Dec).
- S. 7—Reg. Appeal No. 231 of 1960, D/- 19.6.1963 (Mys) — **Revers.** A I R 1969 S C 1157 (Dec).

Criminal Procedure Code (5 of 1898)

- S. 156 (3) — Observation in A I R 1964 Mys 129—**Held overruled** by AIR 1964 S C 1541 as interpreted A I R 1969 Mys 184 (June).
- S. 200—Observation in A I R 1964 Mys 129—**Held overruled** by AIR 1964 S C 1541 as interpreted AIR 1969 Mys 184 (June).
- S. 202 — Observation in AIR 1964 Mys 129—**Held overruled** by AIR 1964 S C 1541 as interpreted A I R 1969 Mys 184 (June).
- S. 203 — Observation in AIR 1964 Mys 129—**Held overruled** by AIR 1964 S C 1541 as interpreted A I R 1969 Mys 184 (June).
- S. 251-A — Observation in AIR 1964 Mys 129—**Held overruled** by AIR 1964 S C 1541 as interpreted A I R 1969 Mys 184 (June).
- S. 252 — Observation in AIR 1964 Mys 129—**Held overruled** by AIR 1964 S C 1541 as interpreted A I R 1969 Mys 184 (June).

DEBT LAWS**—Usurious Loans Act (10 of 1918)**

- S. 2 (3) & (3), (b), (c)—('58) Reg. Appeal No. 134 of 1953, D/- 19.9.1958 (Mys) — **Revers.** A I R 1969 S C 751C, D (Sep).
- S. 3 (3) — ('58) Reg. Appeal No. 134 of 1953, D/- 19.9.1958 (Mys) — **Revers.** A I R 1969 SC 751C (Sep).

Essential Commodities Act (10 of 1955)

- Ss. 7, 8 — (1962) 1 Cri L J 830 (Mys) — **Diss.** AIR 1969 Madh Pra 96 (May).

Income Tax Act (11 of 1922)

- S. 29—(1960) 38 I T R 197 (Mys)—**Over.** AIR 1969 S C 667A (Aug).
- S. 46 (2)—(1960) 38 I T R 197 (Mys) — **Over.** AIR 1969 S C 667A (Aug).

Income Tax Act (43 of 1961)

- S. 156 — A I R 1968 Mys 258—**Revers.** AIR 1969 S C 408A, B (May).
- S. 220 — AIR 1968 Mys 258 — **Revers.** AIR 1969 S C 408A (May).
- S. 221 — A I R 1968 Mys 258—**Revers.** AIR 1969 S C 408A (May).
- S. 222 — A I R 1968 Mys 258—**Revers.** AIR 1969 S C 408A (May).
- S. 226 (3)—AIR 1968 Mys 258—**Revers.** AIR 1969 S C 408A, B (May).
- S. 297 (2) (j) — AIR 1968 Mys 258 — **Revers.** AIR 1969 S C 408A (May).

Jammu and Kashmir Representation of the People Act (4 of 1957)

- S. 47 — A I R 1968 Mys 18—**Diss.** AIR 1969 J & K 16D (Jan).

Jammu and Kashmir State Constitution (1956)

- S. 57—A I R 1968 Mys 18 — **Diss.** A I R 1969 J & K 16D (Jan).

Mysore Excise Act (21 of 1966)

- S. 24 — (1966) 1 Mys L J 554 — **Held Revers.** by AIR 1967 S C 1512 as interpreted AIR 1969 Mys 23F (Jan)

Mysore Excise (Disposal of Privileges of Retail Vend of Liquors) Rules (1967)

- R. 17 (2)—(1968) 16 Law Rep 185 (Mys) —**Revers.** AIR 1969 S C 655C (Aug).
- R. 10 (2) — (1968) 16 Law Rep 285—**Revers.** AIR 1969 S C 655C (Aug).

Mysore Existing Law (Construction of References to Values) Act (12 of 1957)

- S. 3—(1960) 38 Mys L J 567 **Held no longer good law** in view of A I R 1965 S C 560 as interpreted AIR 1969 Mys 230A (Aug).

PANCHAYATS**—Mysore Village Panchayats and Local Boards Act (10 of 1959)**

- S. 3 (2)—(1963) 1 Mys L J 150—**Over.** AIR 1969 Mys 149A (May) (FB).

Representation of the People Act (43 of 1951)

- S. 36 (2) (a)—AIR 1968 Mys 18, **Held no longer good law** in view of A I R 1968 SC 1064 in AIR 1969 J and K 36D (Mar)

SALES TAX**—Madras General Sales Tax Act (9 of 1939)**

- S. 3—(1960) 38 Mys L J 567 — **Held no longer good law** in view of AIR 1968 S C 560 as interpreted AIR 1969 Mys 230A (Aug).

MYSORE CASES OVERRULED, REVERSED AND DISSENTED FROM ETC. IN AIR 1969

Diss. = Dissented from in; Not F. = Not Followed in; Over. Overruled in;
Revers. = Reversed in.

- (58) Reg. Appeal No. 134 of 1953, D/- 19-9-1958 (Mys)—**Revers.** AIR 1969 S C 751A C, D (Sep).
- (59) AIR 1959 Mys 102—**Revers.** A I R 1969 S C 671B, D (Aug).
- (1960) 38 Mys L J 567, Canara Workshop Ltd. v. State of Mysore—**Held no longer good law in view of** AIR 1965 S C 560. AIR 1969 Mys 230A (Aug).
- (1960) 38 I T R 197 (Mys), Govindaswami v. I. T. Officer Bangalore — **Over.** AIR 1969 S C 667A (Aug).
- (61) AIR 1961 Mys 210, M. A. Jaleel v. State Mysore—**Diss.** AIR 1969 Punj 34B (Feb).
- (62) AIR 1962 Mys 218, Achiah Chetty v. State of Mysore — **Revers.** AIR 1969 S C 477B (June).
- 1962 (1) Cri L J 830=ILR (1961) Mys 361, Baburao Balwant v. State of Mysore—**Diss.** AIR 1969 Madh-Pra 96 (May).
- (63) AIR 1963 Mys 265, Govindaraju v. State of Mysore — **Over.** AIR 1969 S C 118A (Jan)
- (1963) 1 Mys L J 150=I L R 1963 Mys 326, K. Venkategowda v. State of Mysore—**Over.** AIR 1969 Mys 149A (May)
- (63) Reg. Appeal No. 231 of 1960 D/- 19-6-1963 (Mys)—**Revers.** AIR 1969 SC 1157 (Dec).
- (64) Observation in A I R 1964 Mys 129 = (1963) 2 Mys LJ 41=1964 (2) Cri LJ 41, Shimangouda v. Veerappa—**Held over-** ruled by A I R 1964 S C 1541 as interpreted AIR 1969 Mys 184 (June)
- (65) AIR 1965 Mys 25, Govindappa v. I. G. of Registration—**Over.** A I R 1969 S C 118A (Jan)
- (1966) 1 Mys L J 554=(1966) 5 Law Rep 68, Suram Ruth Co. v. Dy. Commr., Excise—**Held reversed by** AIR 1967 S C 1512 as interpreted A I R 1969 Mys 23F (Jan).
- (67) AIR 1967 Mys 233=1967 Cri L J 1666, Nanappa v. Divisional Commr. Bangalore Division—**Diss.** AIR 1969 Assam 50A (May) (FB)
- (67) Ele. Petn. No. 8 of 1967, D/- 15-9-1967 (Mys)—**Revers.** A I R 1969 S C 447A (June).
- (68) AIR 1968 Mys 18, K. K. Hushenkhan v. Nijalingappa—**Revers.** AIR 1969 S C 1034B (Nov).
- (69) AIR 1968 Mys 18=13 Law Rep 153, K. K. Hushenkhan v. Nijalingappa—**Diss.** AIR 1969 J & K 16D (Jan)
- (68) AIR 1968 Mys 18=13 Law Rep 153, K. K. Hushenkhan v. Siddavanhalli Nijalingappa — **Held no longer good law in view of** AIR 1968 S C 1064 in AIR 1969 J & K 36D (Mar).
- (68) AIR 1968 Mys 258, M. Damodar Bhat v. Third Income-Tax Officer — **Revers.** AIR 1969 S C 408A, B, C (May)
- (1968) 16 Law Rep 285—**Revers.** A I R 1969 S C 655C (Aug).

CORRECTION

AIR 1969 Mysore 362 (V 56 C 89) (Dec).

Page 366 Col. 2 Para 29, line 18 *Add* the word 'not' between the words 'was' and "made".

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of previous years.

Owing to late receipt of other Journals the following *Supplement* to Comparative Tables of A. I. R. = Other Journals is issued.

A. I. R. Mysore = Other Journals

AIR 1966 Mysore		AIR 1966 Mysore		AIR 1967 Mysore		AIR 1968 Mysore	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
95	ILR (1966) Mys 285	311	ILR (1966) Mys 518	77	ILR (1966) Mys 651	81	1968 Serv L R 135
220	(1969) 2 Lab L J 345	341	ILR (1966) Mys 548	79	ILR (1966) Mys 961	127	ILR (1966) Mys 1013
225	(1969) 2 Lab L J 25			83	ILR (1966) Mys 410	156	(1969) 1 Lab L J 97
243	ILR (1966) Mys 955			136	(1969) 2 Lab L J 331	206	13 Law Rep 40
261	ILR (1966) Mys 666			220	1968 Serv L R 156		1968 Serv L R 269
267	ILR (1966) Mys 418						(1969) 2 Lab L J 163
	(1969) 2 Lab L J 171					266	14 Law Rep 57
278	ILR (1966) Mys 338					296	(1969) 2 Lab L J 14
289	ILR (1966) Mys 232					319	14 Law Rep 81
293	ILR (1966) Mys 400					345	1969 A O J 127
296	ILR (1966) Mys 258						

A. I. R. 1969 Mysore = Other Journals

AIR Other Journals		AIR Other Journals		AIR Other Journals		AIR Other Journals	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [CN 1]	15 Law Rep 188 (1968) 2 Mys L J 48	61 [CN 14]	(1968) 2 Mys L J 150 15 Law Rep 391 1969 Lab I O 252 1969 Ori L J 420 1968 Serv L J 668 (1969) 2 Lab L J 466	141 [CN 27]	(1968) 2 Mys L J 355 18 Law Rep 516 149(FB) [CN 28] 16 Law Rep 312 (1968) 2 Mys L J 341	186con(1968) 2 Mys L J 419 1969 Lab I O 681	
6 [CN 2]	(1968) 2 Mys L J 36	64 [CN 15]	15 Law Rep 337 (1968) 2 Mys L J 155	158 [CN 29]	(1968) 2 Mys L J 508 39 Com Cas 145 1969 A O J 217	196 [CN 39]	(1968) 2 Mys L J 537 18 Fac L R 63 35 F J R 145 1969 Lab I O 591 (1969) 2 Lab L J 442
8 [CN 3]	(1968) 2 Mys L J 42 15 Law Rep 197	73 [CN 16]	15 Law Rep 382 (1968) 2 Mys L J 111	160 [CN 30]	(1968) 2 Mys L J 532 1968 Mad L J	200 [CN 40]	13 Law Rep 501 (1969) 1 Mys L J 234
12 [CN 4]	1969 Ori J 118	76 [CN 17]	(1968) 2 Mys L J 127		(Cri) 780	202 [CN 41]	(1968) 2 Mys L J 407 16 Law Rep 488 17 Fac L R 430 35 F J R 27 1969 Lab I O 695 (1969) 1 Lab L J 645
17 [CN 5]	(1968) 2 Mys L J 39 15 Law Rep 204	77 [CN 18]	(1968) 2 Mys L J 200	162(FB) [CN 31]	(1968) 2 Mys L J 384 16 Law Rep 357	203 [CN 42]	1968 Mad L J (Cri) 662 16 Law Rep 554 (1968) 2 Mys L J 511 1969 Ori L J 757 1969 All Ori R 455
20 [CN 6]	(1967) 2 Mys L J 56 11 Law Rep 348	78 [CN 19]	(1968) 2 Mys L J 289 16 Law Rep 129	167 [CN 32]	(1968) 2 Mys L J 448 16 Law Rep 434	208 [CN 43]	16 Law Rep 369 (1969) 1 Mys L J 22 1969 Lab I O 831
22 [CN 7]	(1968) 1 Mys L J 364 1968 Mad L J (Cri) 296	84 [CN 20]	18 Law Rep 290	171 [CN 33]	(1968) 2 Mys L J 396 17 Fac L R 401 35 F J R 30 17 Law Rep 215 1969 Lab I O 566 (1969) 2 Lab L J 823	215 [CN 44]	16 Law Rep 784
	15 Law Rep 36 1969 Ori L J 123	85 [CN 21]	(1968) 2 Mys L J 464 16 Law Rep 530 1968 Mad L J (Cri) 748 1969 Cri L J 423	173 [CN 34]	16 Law Rep 462	221 [CN 45]	17 Law Rep 43 (1969) 1 Mys L J 12 1969 Mad L J (Cri) 19 1970 Cri L J 59
23 [CN 8]	(1968) 2 Mys L J 15 Law Rep 303	100 [CN 22]	(1968) 1 Mys L J 216 14 Law Rep 1	175 [CN 35]	16 Law Rep 382 (1968) 2 Mys L J 454	222 [CN 46]	16 Law Rep 710 (1968) 2 Mys L J 581
41 [CN 9]	15 Law Rep 352 (1968) 2 Mys L J 166 1969 Lab I O 165 1968 Serv L R 785 (1969) 1 Lab L J 273	103 [CN 23]	16 Law Rep 271 (1968) 2 Mys L J 410	181 [CN 36]	17 Law Rep 1 (1969) 1 Mys L J 1 1969 Mad L J (Cri) 23 1969 Cri L J 752	225 [CN 47]	(1968) 2 Mys L J 531 17 Law Rep 169 1969 Serv L R 158 35 F J R 246 1969 Lab I O 955
47 [CN 10]	(1968) 2 Mys L J 186	111 [CN 24]	14 Law Rep 8 (1968) 1 Mys L J 466	184 [CN 37]	(1968) 2 Mys L J 604 17 Law Rep 25 1969 Mad L J (Cri) 28 1969 Cri L J 754		
48 [CN 11]	13 Law Rep 483 (1968) 1 Mys L J 203	114 [CN 25]	1967 Mad L J 12 Law Rep 288 (1967) 2 Mys L J 470 1969 Cri L J 496	186 [CN 38]	16 Law Rep 329		
51 [CN 12]	11 Law Rep 27 (1967) 1 Mys L J 886 (1967) 2 Lab L J 853 33 FJR 440 1969 Lab I O 170 1969 Ori L J 221	118 [CN 26]	66 ITR 212 9 Law Rep 262				
59 [CN 13]	(1968) 1 Mys L J 169 14 Law Rep 92 1969 Lab I O 178						

A. I. R. 1969 Mysore = Other Journals (concl'd.)

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
228 [ON 48]	10 Law Rep 412 (1967) 1 Mys L J 875	266 [ON 60]	(1969) 1 Mys L J 19 17 Law Rep 154	298 [ON 70]	17 Law Rep 524 (1969) 1 Mys L J 284 1969 Kant L J 41 79 I T B 279	315con1969	Mad L J (Cri) 571 1969 Cri L J 1251
230 [ON 49]	11 Law Rep 237	269 [ON 61]	(1968) 13 Law Rep 494	300 [ON 71]	18 Law Rep 151 (1969) 1 Mys L J 528 18 Fac L R 387 35 F J R 411 1969 Lab I C 1216	319 [ON 79]	16 Law Rep 678 (1969) 1 Mys L J 359
237 [ON 50]	(1967) 1 Mys L J 466 10 Law Rep 163	270 [ON 62]	(1968) 1 Mys L J 191 (1969) 1 Mys L J 387 18 Law Rep 81	303 [ON 72]	17 Law Rep 298 (1969) 1 Mys L J 160 1969 Kant L J 18	337 [ON 80]	(1969) 1 Mys L J 328 17 Law Rep 825
240 [ON 51]	19 Law Rep 224	273 [ON 63] ...		306 [ON 73]	17 Law Rep 450 (1969) 1 Mys L J 169 1969 Serv L R 366 1969 Lab I C 1219	341 [ON 81]	16 Law Rep 442
242 [ON 52]	(1968) 2 Mys L J 219 15 Law Rep 754	275 [ON 64]	(1969) 17 Law Rep 885	309 [ON 74]	17 Law Rep 627 (1969) 1 Mys L J 276 1969 Kant L J 33 23 S T O 230	345 [ON 82] ...	
248 [ON 53]	13 Law Rep 488 (1968) 1 Mys L J 225 (1968) 2 Lab L J 450 1969 Lab I C 986	277 [ON 65]	(1969) 1 Mys L J 383 (1969) 1 Mys L J 398 18 Law Rep 49 1969 Mad L J (Cri) 362 1969 Ori L J 1144	310 [ON 75]	17 Law Rep 681 (1969) 1 Mys L J 237	346 [ON 83]	(1969) 1 Mys L J 415 18 Law Rep 71 1969 Serv L R 364 1969 Lab I C 1357
252 [ON 54]	(1968) 1 Mys L J 221 13 Law Rep 658	280 [ON 66] ...		312 [ON 76]	(1969) 1 Mys L J 194 17 Law Rep 656	348 [ON 84]	1969 Serv L R 481 1969 Lab I C 1466
255 [ON 55]	(1968) 2 Mys L J 273 16 Law Rep 123	293 [ON 67]	(1967) 1 Mys L J 411 10 Law Rep 133	313 [ON 77]	(1969) 1 Mys L J 613 19 Law Rep 219	350 [ON 85]	18 Law Rep 277 (1969) 2 Mys L J 580
257 [ON 56]	(1968) 2 Mys L J 434 (1969) 17 Law Rep 694	295 [ON 68]	17 Law Rep 644 (1969) 1 Mys L J 425 (1969) Kant L J 45 24 S T O 36	315 [ON 78]	18 Law Rep 327	355 [ON 86]	18 Law Rep 250 (1969) 1 Mys L J 615 36 F J R 1 1969 Lab I C 1488
262 [ON 57]	(1969) 1 Mys L J 99 (1969) 17 Law Rep 723	297 [ON 69]	17 Law Rep 602 1969 Mad L J (Cri) 294 (1969) 1 Mys L J 420 1969 Ori L J 1250			360 [ON 87]	18 Law Rep 181 (1969) 1 Mys L J 525
263 [ON 58]	(1968) 2 Mys L J 133					361 [ON 88]	19 Law Rep 156 (1969) 2 Mys L J 94
265 [ON 59]	(1968) 2 Mys L J 550 17 Law Rep 689					362 [ON 89]	19 Law Rep 71 1969 Lab I C 1492

Other Journals = All India Reporter

ILR (1966) Mys (Jan to Aug 1966)	ILR (1967) Mys	(1967) 10 Law Reports	(1968) 14 Law Reports	(1968) 15 Law Reports
ILR (Mys) AIR	ILR (1968) Mys	L R AIR	Law Rep AIR	Law Rep AIR
170 1967 Mys 21	ILR (1969) Mys	412 1969 Mys 226	1 1969 Mys 100	483 1967 SC 1889
232 1966 " 283	(Not Received)		8 " " 111	494 1968 " 90
247 1967 " 51		(1967) 11 Law Reports	57 1968 " 266	506 " " 133
252 " " 40	1969 Kant L J	L R AIR	81 " " 319	754 1969 Mys 242
258 1966 " 286	Kant LJ AIR	237 1969 Mys 230	92 1969 " 59	
285 " " 95	18 1969 Mys 303	(1967) 12 Law Reports	99 1967 SC 1550	(1968) 16 Law Reports
338 " " 278	33 " " 309	L R AIR	104 " " 568	Law Rep AIR
374 1967 " 67	41 " " 298	298 1969 Mys 114	115 " " 1599	123 1969 Mys 255
400 1966 " 293	45 " " 295		126 " " 1747	129 " " 78
410 1967 " 83		(1968) 13 Law Reports	138 " " 1353	271 " " 103
418 1966 " 267		L R AIR	150 " " 1260	312 " " 149
518 " " 311		298 1969 Mys 114	156 " " 1156	329 " " 186
548 " " 341	(1967) 9 Law Reports		165 " " 1301	357 " " 162
651 1967 " 77	ILR AIR	(1968) 15 Law Reports	172 " " 1170	369 " " 208
666 1966 " 281	262 1969 Mys 118	Law Rep AIR		382 " " 175
688 " SC 1285		5 1967 SO 1189	(1968) 15 Law Reports	394 1970 " 13
876 " " 1571		40 1968 Mys 206	Law Rep AIR	434 1969 " 167
935 1967 Mys 44		463 1969 " 248	382 1969 Mys 73	442 " " 341
955 1966 " 243	(1967) 10 Law Reports	494 " " 269	459 1968 SC 169	462 " " 173
961 1967 " 79	L R AIR	501 " " 200	468 " " 147	488 " " 202
969 1966 SC 1942	133 1969 Mys 293	658 " " 252	474 " " 222	516 " " 141
1013 1968 Mys 127	163 " " 237		477 " " 175	530 " " 95
				554 " " 203

Other Journals = All India Reporter (concl'd.)

(1968) 16 Law Reports			
Law Rep		Mys	AIR
678	1969	Mys	319
710	"	"	222
784	"	"	215

(1969) 17 Law Reports

Law Rep		Mys	AIR
1	1969	Mys	181
5	1968	SO	653
13	"	"	832
25	1969	Mys	184
38	1968	SO	707
43	1969	Mys	221
47	"	SO	733
57	"	"	850
76	"	"	441
87	"	"	609
93	"	"	413
154	"	Mys	266
169	"	"	225
199	1968	SO	751
204	"	"	748
215	1969	Mys	171
229	1968	SO	432
298	1969	Mys	303
426	"	"	160
450	"	"	308
524	"	"	298
534	1968	SO	647
543	"	"	497
552	"	"	881
602	1969	Mys	297
608	1969	SO	754
627	1969	Mys	309
644	"	"	295
656	"	"	312

(1969) 17 Law Reports

Law Rep		Mys	AIR
667	1968	SO	425
681	1969	Mys	310
689	"	"	265
694	"	"	257
723	"	"	259
825	"	"	237
843	1970	"	70
885	1969	"	275

18 Law Reports

L R		Mys	AIR
49	1969	Mys	277
71	"	"	346
81	"	"	270
151	"	"	300
181	"	"	360
189	1970	"	73
194	"	"	1
235	"	"	34
250	1969	"	355
277	"	"	350
298	"	"	84
337	"	"	315
399	1970	"	7
438	"	"	37
453	"	"	45

19 Law Reports

L R		Mys	AIR
59	1970	Mys	52
71	1969	"	362
82	1970	"	49
98	"	"	10
156	1969	"	361

19 Law Reports

Law Rep		Mys	AIR
211	1970	Mys	11
219	1969	"	313
224	"	"	240
229	1970	"	60
267	"	"	3
435	"	"	77

(1967) 1 Mys L J

Mys L J		Mys	AIR
411	1969	Mys	293
466	"	"	237
675	"	"	226

(1967) 2 Mys L J

Mys L J		Mys	AIR
470	1969	Mys	114

(1968) 1 Mys L J

Mys L J		Mys	AIR
191	1969	Mys	269
216	"	"	100
221	"	"	252
225	"	"	248
234	"	"	200
466	"	"	111

(1968) 2 Mys L J

Mys L J		Mys	AIR
111	1969	Mys	73
127	"	"	76

(1968) 2 Mys L J

Mys L J		Mys	AIR
133	1969	Mys	263
200	"	"	77
219	"	"	242
273	"	"	255
289	"	"	78
341	"	"	149
355	"	"	141
384	"	"	162
396	"	"	171
407	"	"	202
410	"	"	103
434	"	"	257
448	"	"	167
454	"	"	175
464	"	"	95
491	"	"	186
508	"	"	158
511	"	"	203
532	"	"	160
537	"	"	196
550	"	"	265
581	"	"	222
604	"	"	184
631	"	"	225

(1969) 1 Mys L J

Mys L J		Mys	AIR
1	1969	Mys	181
12	"	"	221
19	"	"	266
22	"	"	208
99	"	"	269
160	"	"	303
169	"	"	306
194	"	"	312
237	"	"	310
244	1970	"	13

(1969) 1 Mys L J

Mys L J		Mys	AIR
276	1969	Mys	309
284	"	"	298
290	1970	"	70
328	"	"	337
359	"	"	319
383	"	"	275
387	"	"	277
398	"	"	346
415	"	"	297
420	"	"	295
425	"	"	895
515	"	"	1163
518	"	"	360
525	"	"	300
528	"	"	73
563	"	"	1
578	"	"	34
606	"	"	313
613	1969	"	355
615	"	"	

(1969) 2 Mys L J

Mys L J		Mys	AIR
92	1970	Mys	76
94	1969	"	361
135	1970	Mys	60
187	"	"	37
179	"	"	77
187	"	"	46
234	"	"	10
264	"	"	7
284	"	"	53
320	"	"	350
332	"	"	49
580	"	"	3
587	"	"	
601	"	"	

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[Vol. 56]

ORISSA SECTION

WITH COMPARATIVE TABLES FOR

- (1) I. L. R. CUTTACK (2) CUTTACK LAW TIMES
(3) ORISSA JUDICIAL DECISIONS

CITATION : A. I. R. (56) 1969 ORISSA

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ORISSA HIGH COURT

1969

CHIEF JUSTICES :

The Hon'ble Mr. Justice Satya Bhusan Barman, Bar-at-law.
" " " G. K. Misra, M.A., B.L. (From 1-5-69).

PUISNE JUDGES :

The Hon'ble Mr. Justice Gat Krishna Misra, M.A., B.L. (Up to 1-5-69).
" " " Abhimanyu Misra, B.L.
" " " Sukanta Kishore Ray, M.A., B.L.
" " " B. K. Patra, B.L.
" " " Sachidananda Acharya, B.L.
" " " R. N. Misra, M.A., LL.M. (From 4-9-69).

ADVOCATE-GENERAL :

Shri Asok Das.

GOVERNMENT ADVOCATES :

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" N. K. Das.

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" D. P. Mahapatra.

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NOMINAL TABLE

Abdul Hassan M. v. State of Orissa	(Aug) 180	Ghosh S. K. v. State	(Sep) 228
Abodha Kumar v. State of Orissa	(April) 80	Gita Debi Saragi v. Madan Mohan Masanta	(Dec) 294
Anantha Swain v. Nilakantha Biswal	(Oct) 267	Golaprai Jain v. Gouranga Meher	(Oct) 266
Amruta Purohitani v. Jogesh Chandra Hota	(Jan) 5	Gopinath Deb v. Jagannath Baral	(Feb) 18
Anadi Sahu v. Narendra Naik	(April) 70	Hari Maharana v. Pranabandhu Maharana	(July) 167
Anama Rout v. Trilochan Das	(April) 75	Hindusthan Steel Ltd. v. A. K. Roy	(Oct) 252
Ananda Prasad Ray v. State of Orissa	(Oct) 263	Hindusthan Steel, Ltd. v. Rourkela Mazdoor Sabha	(Sep) 209
Anandasingh Neggi v. State	(March) 49	Indrajit Behera v. Bhaja Meher	(Oct) 257
Ananta Misra v. Utama Dibya	(Aug) 183	Jagabandhu Sahu v. State of Orissa	(Dec) 299
Appa Rao K. v. Director of Posts and Telegraphs, Orissa	(Sep) 220	Jagannath Misra v. State of Orissa	(Dec) 296
Arjuno Goudo v. State	(Aug) 200	Jalil M. A. v. Sayed Iqubal Ali	(Aug) 204
Bairagi Charan v. Basanta Priya Devi	(April) 67	Judhistir Jena v. Surendra Mohanty	(Sep) 233
Baishnaba Charan v. Nityananda Satapathy	(March) 34	Kanhu Charan Behera v. Jagabandhu Behera	(Jan) 7
Balaram Tripathy v. Hemalata Dibya	(Aug) 196	Karam Singh v. State	(Feb) 23
Bedabar Sahu v. Khetramani Barik	(Aug) 194	Khetrabasi v. Batakrisna	(Oct) 262
Bela Dibya v. Ramkishore Mohanty	(May) 114	Kirtan Das v. State	(March) 36
Bhakti Charan Das v. Satyen Kumar Raichoudhury	(Oct) 241	Krushna Chandra Tripathy v. Lokanath Mohapatra	(June) 140
Bhalu Naik v. Hemo Naikani	(Sep) 236	Krushna Prasad Panda v. Inspector of Schools, Balasore	(Sep) 213
Bhanja v. Somanath	(Oct) 268	Kusuma Dei v. Malati Bewa	(Aug) 195
Binod Naik v. Chandrasekhar Padhi	(June) 134	Lakhyeswar Karmi v. Padmabati Karmi	(Jan) 10
Biro Swain v. State of Orissa	(July) 146	Lakshman Jena v. Sudhakar Palta-singh	(July) 149
Bisipati Padhan v. State	(Dec) 289	Madan Naikani v. Ranjit Mahakur	(April) 77
Bisra Lime Stone Co. Ltd. v. Labour Inspector, Central	(May) 110	Mahomed Serajuddin v. State of Orissa	(July) 152
Brahmananda Satpathy v. State of Orissa	(Sep) 224	Mani Charan Swain v. State of Orissa	(Aug) 184
Brajabala Das Smt. v. Radha Kamal Das	(March) 63	Manilal Sahu v. State	(July) 176
Commissioner of Income-tax v. Prafulla Kumar Mallik	(Aug) 187	Manoranjan Samanta Kumar v. Brundabati Veergam	(March) 52
Daitari Sahu v. Lokanath Baral	(Jan) 6	Mayadhar Misra v. Pramod Chandra Misra	(June) 144
Damodar Jew Thakur v. Hema Narayan Misra	(March) 54	Municipal Council, Cuttack v. Pramod Kishore Das	(Nov) 284
Dasarathi Mahapatra Dr. v. State of Orissa	(Sep) 215	Munilal v. State of Orissa	(Nov) 283
Dhansai Sahu v. State	(May) 105	Nandram Hunatram v. State of Orissa	(July) 165
Dinamani Dass v. Bimbardhar Padhan	(Feb) 28	Narasingo Maharana v. Chaitanya Sahu	(March) 59
Director of Industries, Orissa v. Janardan Nanda	(March) 58	Natabar v. Radhamohan	(Oct) 250
Durga Prasad v. Sadasib Biswal	(July) 171	Pakula Majhi v. Subhadra Bho-truni	(Jan) 3
Ersad Ali v. Muhammad Yakub Khan	(Aug) 201	Pannalal Sowcar G. v. Appalabhu-katala Sanyasayya Achary	(July) 147
Eva Rout v. State of Orissa	(Dec) 293	Paramananda Ash v. Bhagabati Dei	(Feb) 32
Ghosal S. N. Dr. v. State of Orissa	(March) 45	Paramananda Patra v. State	(Sep) 222

Pingal Khadia v. State	(Oct) 245	Somnath Misra v. Union of India	(March) 37
Prahlad Dora v. State of Orissa	(Feb) 21	Soubhagya Chandra v. Union of India	(July) 169
Prasana Kumar v. Sureswari	(Jan) 12	Sree Narayan Company v. State of Orissa	(July) 163
Prasanta Mohapatra v. State of Orissa	(March) 61	Sribataha Barik v. Musamat Padma	(May) 112
Pratap Chandra Raj v. Madan Ram	(Nov) 273	Sribatsa Misra v. State of Orissa	(Jan) 13
Pratap Kishore v. Rama Chandra	(Nov) 278	Sribatsha Kanugo v. Board of Secondary Education	(Feb) 30
Rabindra Kumar Sahu v. Utkal University	(Aug) 206	State v. Bauri Dissoi	(Nov) 286
Radha Charan v. State of Orissa	(Sep) 237	— v. Pabitra Guru	(Nov) 287
Rajkishore Bhuyan v. State	(Aug) 190	State of Orissa v. Gobind Choudhury	(Nov) 274
Raj Kishore Mahapatra v. Narasingh Mishra	(March) 56	— v. Govinda Choudhury	(Nov) 280
Ramahari Moharana v. Land Acquisition Officer	(Aug) 198	Stewart Science College v. Braja Sundar Das	(June) 137
Rambally Bhramarbar Ray v. Utkal University	(April) 89	Straw Products Ltd. v. Registrar of Companies, Orissa	(April) 91
Rameswarlal v. Panchu Sahu	(May) 116	Surendra v. Annapurna	(Oct) 261
Ram Saraf v. Mani Dei	(Dec) 295	Tutika Lakshminarayana v. Paltharla Saraswati	(Oct) 265
Rao and Sons v. Bijayalaxmi Das	(Dec) 301	Uchhab Patra v. Brundaban Mallick	(June) 142
Registrar of Companies, Orissa v. Haribansha Misra	(Sep) 234	Union of India v. Bhagaban Rout	(May) 100
Sankar Behera v. State	(April) 73	Uttareswari Rice Mill, Berhampur v. Sales Tax Officer, Intelligence Wing, Vigilance, Berhampur	(Jan) 1
Sanyasi Behra v. Onarasi	(Jan) 16		
Sarat Chandra Biswal v. Surendra Mohanty	(May) 117		
Sarka Gundusa v. State	(May) 102		
Satya Bhusan Ray v. State of Orissa	(Aug) 182		
Somnath Das v. State	(June) 138		

SUBJECT INDEX

Advocates Act (25 of 1961), Rules under Preamble, R. 3—Representative petition containing passages constituting contempt of Court by scandalising the High Court and the Judges with a view to diverting due course of justice — Advocates signing the petition, asserting that it was their duty as Advocates to place their client's cause fearlessly before the Court, relying on R. 15 of rules framed under S. 49 (c), Advocates Act, 1961 — Held that R. 15 envisages that Advocate shall fearlessly uphold the lawful interest of his client, befitting his status as an officer of Court — R. 15 is subject to the Preamble of the rules and Rr. 3 and 4 which state that he shall not influence decision of Court by illegal or improper means and that he shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practice and that he shall not be a mere mouthpiece of his client — Rules do not alter the position of an Advocate who is primarily an officer of the Court which cannot override his duty to client—The conduct of the Advocate signing the petition

Advocates Act (contd.)

amounted to contempt of Court—*See* Contempt of Courts Act (1952), S. 3 (May) 117E
 —*Rules under, Preamble, R. 4*—Representative petition containing passages constituting contempt of Court by scandalising the High Court and the judges with a view to diverting due course of justice — Advocates signing the petition, asserting that it was their duty as Advocates to place their client's cause fearlessly before the Court, relying on R. 15 of rules framed under S. 49 (c), Advocates Act, 1961 — Held that R. 15 envisages that Advocate shall fearlessly uphold the lawful interest of his client, befitting his status as an officer of Court — R. 15 is subject to the Preamble of the rules and Rr. 3 and 4 which state that he shall not influence decision of Court by illegal or improper means and that he shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practice and that he shall not be a mere mouthpiece of his client—Rules do not alter the position of an Advocate who is primarily an officer

Advocates Act (contd.)

of the Court which cannot override his duty to client — The conduct of the Advocate signing the petition amounted to contempt of Court — *See* Contempt of Courts Act (1952), S. 3 (May) 117E

— *Rules under Preamble, R. 15* — Representative petition containing passages constituting contempt of Court by scandalising the High Court and the judges with a view to diverting due course of justice — Advocates signing the petition, asserting that it was their duty as Advocates to place their client's cause fearlessly before the Court, relying on R. 15 of rules framed under S. 49 (c), Advocates Act, 1961 — Held that R. 15 envisages that Advocate shall fearlessly uphold the lawful interest of his client, befitting his status as an officer of Court — R. 15 is subject to the Preamble of the rules and Rr. 3 and 4 which state that he shall not influence decision of Court by illegal or improper means and that he shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practice and that he shall not be a mere mouthpiece of his client — Rules do not alter the position of an Advocate who is primarily an officer of the Court which cannot override his duty to client — The conduct of the Advocate signing the petition amounted to contempt of Court — *See* Contempt of Courts Act (1952), S. 3 (May) 117E

— *S. 49 (c)* — Representative petition containing passages constituting contempt of Court by scandalising the High Court and the judges with a view to diverting due course of justice — Advocates signing the petition, asserting that it was their duty as Advocates to place their client's cause fearlessly before the Court, relying on R. 15 of rules framed under S. 49 (c), Advocates Act, 1961 — Held that R. 15 envisages that Advocate shall fearlessly uphold the lawful interest of his client, befitting his status as an officer of Court — R. 15 is subject to the Preamble of the rules and Rr. 3 and 4 which state that he shall not influence decision of Court by illegal or improper means and that he shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practice and that he shall not be a mere mouthpiece of his client — Rules do not alter the position of an Advocate who is primarily an officer of the Court which cannot override his duty to client — The conduct of the Advocate signing the petition amounted to contempt of Court — *See* Contempt of Courts Act (1952), S. 3 (May) 117E

All India Services Act (61 of 1951)

See under Civil Services.

All India Services (Death-Cum-Retirement Benefit) Rules (1958)

See under Civil Services.

Arbitration Act (10 of 1940), S. 8 (1) (a) — Consent when can be implied — Test — Appointment made by Court on implied consent — Change in, is discretionary (Nov) 280

— *Ss. 8 (2), 11 (1) and 12 (2)* — Construction of bridge proper minus superstructure — Dispute regarding rates of payment — Matter relating to award pending in High Court — Meanwhile construction of superstructure under fresh agreement — Application under Ss. 8 (2), 11 (1) and 12 (2) — Sufficient compliance with Art. 299 (1) of Constitution — Subsequent arbitration proceeding held maintainable (Nov) 274

— *S. 11 (1)* — Contract with Government — Dispute relating to rates regarding completed as well as incomplete work — Dispute pending — Subsequent agreement regarding incomplete work — Agreement held in compliance with Art. 299 (1) — Application under S. 11 (1) maintainable — *See* Arbitration Act (10 of 1940), S. 8 (2) (Nov) 274

— *S. 12 (2)* — Contract with Government — Dispute relating to rates regarding completed as well as incomplete work — Dispute pending — Subsequent agreement regarding incomplete work — Agreement held in compliance with Art. 299 (1) — Application under S. 12 (2), maintainable — *See* Arbitration Act (10 of 1940), S. 8 (2) (Nov) 274

Arms Act (54 of 1959), S. 27 — Charges under the section and S. 148 of Penal Code — Acquittal for offence under S. 148, Penal Code — Conviction under S. 27 cannot be maintained — *See* Criminal P. C. (1898), S. 403 (Feb) 23B

Army Act (46 of 1950), Ss. 71, 73 — Punishment of dismissal can be combined with sentence of imprisonment (July) 169B

— *S. 73* — Punishment of dismissal can be combined with sentence of imprisonment — *See* Army Act (1950), S. 71 (July) 169B

— *S. 152* — Proceedings before Court-Martial — Procedure to be followed — Rules of natural justice should be observed (July) 169A

Bihar and Orissa Excise Act (2 of 1915), S. 27 — Countervailing duty levied through mistake — Refund application within 3 years from knowledge — Application within time — On refusal of relief writ maintainable — *See* Constitution of India, Art. 226 (Aug) 180

Bihar and Orissa Public Demands Recovery Act (4 of 1914), S. 43 (3) — Notice under S. 80 of Civil P. C. necessary for maintainability of suit under the provisions — (Civil P. C. (1908), S. 80) — AIR 1955 Pat 404 and

Bihar and Orissa Public Demands Recovery Act (contd.)

AIR 1963 Andh. Pra 164, held impliedly Overruled by AIR 1966 SC 1063 (Mar) 58

Civil Procedure Code (5 of 1908), Pre.— Interpretation of Statutes — Proviso to a particular provision of a statute — Construction of (Oct) 241A

— *Pre* — *Precedents* — First Division Bench decision — No overruling by subsequent Division Bench on palpable errors in the former — Matter must be referred to larger Bench — Decision, however, need not be followed if it ceased to be good law by reason of Supreme Court decision: (Dec) 299B

— *S. 2 (3)* — *See* Civil P. C. (1908), O. 22, R. 10 (June) 142

— *S. 9* — Question of want of inherent jurisdiction — Question decided in suit or execution — Court holding that it had jurisdiction — Identical question cannot be raised inter partes — *See* Civil P. C. (1908), S. 47 (Feb) 21

— *S. 11* — *Res judicata* — Trial Court and appellate Court having concurrent jurisdiction to extend time — Adverse order passed by appellate Court — Trial Court cannot extend time (Jan) 7A

— *S. 11* — Suit under — Judgment-debtors are not necessary parties but made parties — Effect — *See* Civil P. C. (1908), O. 21, R. 63 (Jan) 16B

— *S. 11* — Question of want of inherent jurisdiction — Question decided in suit or execution — Court holding that it had jurisdiction — Identical question cannot be raised inter partes — *See* Civil P. C. (1908), S. 47 (Feb) 21

— *Ss. 11 and 41* — *Res judicata* — Application of principle in execution proceedings (July) 147C

— *S. 11* — Plea of *res judicata* — Ingredients stated — Onus is on defendant to establish — Pleading and proof — Evidence in support (July) 171B

— *S. 35, O. 6, R. 17* — Amendment of written statement — Delay caused by defendant's lack of vigilance — Costs — Plaintiff taking recalcitrant attitude and allowing litigation to be protracted — It would be in fitness of things that amendment should be allowed and plaintiff would be saddled with costs — However, as it was fairly conceded in appeal that amendment should have been allowed, plaintiff was not saddled with any costs (Oct) 267D

— *Ss. 39 (1) (c), 41, 42* — Power of transferee Court after despatch of non-satisfaction certificate (July) 147B

— *S. 41* — Mere communication of information without a formal order is not non-satisfaction certificate (July) 147A

Civil P. C. (contd.)

— *S. 41* — Issue of non-satisfaction though found not in accordance with law is yet step-in-aid of execution — *See* Limitation Act (1908), Art. 182 (July) 147B

— *S. 41* — Order of executing Court holding that "non-satisfaction certificate" was sent though in fact it was not sent — Failure to take objection — Party precluded from raising objection at later stages — *See* Civil P. C. (1908), S. 11 (July) 147C

— *S. 41* — Non-dispatch of non-satisfaction certificate by transferee Court — Jurisdiction of transferor Court to execute decree *See* Civil P. C. (1908), S. 39 (1) (c) (July) 147D

— *S. 42* — Powers of transferee Court — *See* Civil P. C. (1908), S. 39 (1) (c) (July) 147D

— *Ss. 47, 9, 11* — Question of want of inherent jurisdiction — Question decided in suit or execution — Court holding that it had jurisdiction — Identical question cannot be raised inter partes (Feb) 21

— *S. 47, O. 21, R. 2* — Agreement against execution — Question whether agreement is bar to execution — Agreement not superseding decree — Executing Court can decide the effect of agreement under S. 47 subject to O. 21, R. 2. AIR 1961 All 1 (FB), Diss. from. (Feb) 32

— *S. 47* — Maintenance decree creating charge on property — Auction purchaser purchasing such property for consideration and without notice of charge — Decree not satisfied — Property put to sale — Auction-purchaser objecting under S. 47, Civil P. C. Objection cannot be upheld — *See* Transfer of Property Act (1882), S. 100 (May) 114B

— *Ss. 47, 151, 110 and 115, O. 34, R. 5; O. 21, R. 98* — Execution of mortgage decree — Property sold — Sale confirmed — Objection to delivery of possession to auction purchaser, held, not within the purview of S. 47 — Order of executing Court was one under S. 151 — Only revision lay against it (June) 144

— *S. 48* — Non-satisfaction certificate issued under S. 41 — Certificate not in accordance with law — It is yet step-in-aid of execution and saves limitation — *See* Limitation Act (1908), Art. 182 (July) 147B

— *S. 64* — Sale during pendency of injunction — Purchaser should be impleaded as defendant — *See* Civil P. C. (1908), O. 39, R. 1 (Aug) 195

— *S. 80* — Notice under — Necessity of — *See* Bihar and Orissa Public Demands Recovery Act (4 of 1914), S. 43 (3) (Mar) 53

— *Ss. 100, 101* — Finding of fact on the question of possession — Grounds for disturbance in second appeal — *See* Civil P. C. (1908), S. 103 (Feb) 18C

Civil P. C. (contd.)

—Ss. 100, 101—Plea of “benami”—It is mixed question of law and fact—Cannot be raised for first time in second appeal

(Apr) 67A

—Ss. 100, 101—Lower Appellate Court finding that the sale in question by karta of joint family was for consideration and supported by legal necessity and antecedent debts—Relevant materials taken into consideration in arriving at the finding—Finding is a pure finding of fact and is not assailable in second appeal

(June) 134A

—Ss. 100, 101—Abatement of appeal—See Civil P. C. (1908), O. 22, R. 3

(June) 134D

—Ss. 100, 101—Market value of land—Finding as to is a finding of fact—See Civil P. C. (1908), S. 115

(June) 140B

—Ss. 103 and 100, 101—Finding of fact on the question of possession—Grounds for disturbance

(Feb) 18C

—S. 105 and O. 41, R. 25—Order of remand illegal—Bar under S. 105 (2) does not apply

(Apr) 67B

—S. 110—See Civil P. C. (1908), S. 47

(June) 144

—S. 115, O. 33, R. 2—Court not following provisions of O. 33, R. 2—Order passed is revisable—1958 (2) Mad L J 93, Dissented

(Jan) 10A

—S. 115—Amendment of preliminary decree in pursuance of order directing fresh withdrawal of the decree—Revision against order incompetent

(Feb) 28A

—S. 115—Exercise of power under is discretionary

(Feb) 28B

—S. 115—Powers of High Court under Ex parte decree against minor upon non-appearance of guardian—Court failing to appoint guardian for minor—Decree against minor can be set aside in revision even if petition is not filed by minor

(Mar) 52C

—S. 115 and O. 21, R. 90—Finding of fact—Finding that sale proclamation was not published at the site is one of pure fact—Cannot be disturbed in revision—Such non-publication clearly amounts to material irregularity in publishing sale

(Mar) 63A

—S. 115 and O. 21, R. 90—Erroneous decision on question of law concerning jurisdiction—High Court would interfere in revision—Order dismissing application under O. 21, R. 90 as time barred reversed by appellate Court by committing error of law on question of fraud—Order set aside

(Mar) 63D

—S. 115—Rent suit—Third party claiming to be owner of property in question—Party claiming to be impleaded—Addition of such party wrong and material irregularity—See Civil P. C. (1908), O. 1, R. 10 (2)

(May) 116

Civil P. C. (contd.)

—Ss. 115, 100 and 101—Finding of fact—Market value of lands in question—Such value is finding of fact—Finding cannot be disturbed in revision

(June) 140B

—S. 115—Execution of mortgage decree—Sale of property—Sale confirmed—Order is one under S. 151—Only revision lies against such order—See Civil P. C. (1908), S. 47

(June) 144

—S. 115—Failure to bestow attention to crucial evidence lending support to defence—Order can be revised and case remanded—See Civil P. C. (1908), O. 9, R. 13

(Aug) 183

—S. 115—Court-fees—Jurisdiction involved—Revision filed by defendant—High Court can interfere

(Oct) 257B

—S. 115—Revision—Lack of evidence—Case should be remanded—See Court-Fees and Suits Valuations—Court-fees Act (1870), S. 7 (v) (c)

(Oct) 257C

—S. 115 and O. 21, R. 89—Application for setting aside sale on deposit of decretal amount dismissed—Objection that no chalan was filed with application held could not be allowed to be agitated for first time in High Court sitting in revision against order of dismissal (Held on facts that the necessary chalan was filed)

(Nov) 278A

—S. 115, O. 14, R. 2—Issues as to maintainability of suit on ground of limitation and O. 2, R. 2 Civil P. C.—Nothing wrong in not deciding the issues as preliminary issues—Suit must be tried as a whole and not piecemeal unless it involves question of jurisdiction—It cannot be said that lower court exercised its jurisdiction either illegally or with material irregularity

(Dec) 295

—S. 115 (c) and O. 9, Rr. 7 and 13—“Exercise of its jurisdiction illegally”—Order allowing defendant’s application under O. 9, R. 7 without jurisdiction—Order not taking into account whether defendant had sufficient cause for his non-appearance on hearing date—High Court will interfere

(Nov) 284B

—Ss. 148 and 152 and O. 20, R. 3—Deposit of purchase money—Time specified by decree—Extension of time—Principles

(Jan) 7B

—S. 148—Execution of money-decree—Instalment order—Default in paying second instalment—Application for extension of time—Court has power to extend time though it can refuse to exercise that discretion if sufficient cause is not made out—Applicant’s assertion that he could not pay the amount due to drought not countermanded by reliable evidence—Drought, held, a notable event for last 3 or 4 years

Civil P. C. (contd.)

and a sufficient ground for extension of time. AIR 1954 Ori 136 held no longer good law in view of AIR 1961 SC 882 (Oct) 266

—S. 151—Execution of mortgage decree—Property sold—Sale confirmed—Objection to not within purview of S. 47—Order of executing Court was one under S. 151—See Civil P. C. (1908), S. 47 (June) 144

—S. 152—Deposit of purchase money—Time fixed by decree—Extension of—Principles—See Civil P. C. (1908), S. 148 (Jan) 7B

—O. 1, R. 8—Suit by student of a college against college authorities for certain declaration—Person ceasing to be student of college cannot be said to continue to have same interest as other students of the college—Hence they cannot be allowed to sue in a representative capacity or to be impleaded as co-plaintiffs in the suit (June) 137

—O. 1, R. 10—Suit under—Judgment-debtors are not necessary parties but made parties—Effect—See Civil P. C. (1908), O. 21, R. 63 (Jan) 16B

—O. 1, R. 10—Partition between A and B—Dwelling house not partitioned by metes and bounds—Death of A and sale of undivided share by his widow—Suit for partition by purchaser—Wife, sons and daughter of B are not necessary parties to proceedings under S. 4—See Partition Act (1893), S. 4 (Dec) 294A

—O. 1, R. 10(2) and S. 115—Rent suit—Third party claiming to be owner of property in question—Such party seeking to be impleaded—Title suit of such party in respect of same property pending—Addition of such party wrong and material irregularity (May) 116

—O. 6, R. 2—Ingredients of S. 251, Orissa Tenancy Act (2 of 1913) neither pleaded nor proved—Section cannot be invoked—See Tenancy Laws—Orissa Tenancy Act (2 of 1913), S. 55 (c) (Aug) 184C

—O. 6, R. 4—Fraud—Pleading and proof—Nature of proof required to prove fraud—See Limitation Act (1963), S. 17 (Mar) 63C

—O. 6, R. 15—Rule 13 (b) of Hindu Marriage and Divorce Rules (Orissa High Court) (1956) is analogous to provisions of O. 6, R. 15—See Hindu Marriage Act (1955), S. 24 (Sep) 236A

—O. 6, R. 17—Suit for recovery of loan on basis of insufficiently stamped handnote—Application seeking amendment in plaint to base suit on oral loan giving rise to execution of handnote filed after close of trial—Can be allowed (Mar) 34

Civil P. C. (contd.)

—O. 6, R. 17—Amendment of written statement in appeal—Inadvertent mistake—Mere delay or lack of vigilance by itself is not a ground for refusing amendment—Crucial test is what the defendant avers is true or not—Inadvertent mistake cannot be permitted to continue, merely because on its basis a contradiction had been shown and argument already advanced in appeal was to fail—Amendment should be allowed by compensating plaintiff with costs (Oct) 267A

—O. 6, R. 17—Amendment of written statement—Delay due to lack of vigilance—When costs should be awarded—See Civil P. C. (1908), S. 35 (Oct) 267B

—O. 7, R. 6—Fraud—Nature of proof required to prove—See Limitation Act (1963), S. 17 (Mar) 63C

—O. 8, R. 5—Counter affidavits—See Constitution of India, Art. 226 (Apr) 80C

—O. 8, R. 6—Applicability—Plea of adjustment—Rule applies if adjustment has not been effected prior to institution of suit (July) 171

—O. 9, R. 6 (1) (a)—Application under O. 9, R. 7—No evidence adduced—Application cannot be allowed—See Civil P. C. (1908), O. 9, R. 7 (Nov) 284A

—O. 9, R. 7—Written statement not filed by defendant—Suit set ex parte against him and posted for ex parte hearing—Case adjourned and ultimately decreed ex parte—Defendant applying for setting it aside on ground of illness on last date of hearing—Ex parte decree held could be set aside and suit restored even though previous ex parte orders were not set aside—On restoration of suit, defendant would be debarred from filing his written statement but he could cross-examine plaintiff's witnesses and could give evidence on his own behalf. AIR 1950 Lah 43, Held no longer good law in view of AIR 1964 S C 993 (Oct) 261

—O. 9, R. 7 and 6 (1) (a)—Suit heard ex parte—Date for judgment fixed—On such date defendant filing application under O. 9, Rule 7—No evidence adduced—Yet application allowed—Order held without jurisdiction (Nov) 284A

—O. 9, R. 7—Application under Rule, allowed illegally—Order will be interfered with in revision—See Civil P. C. (1908), S. 115 (c) (Nov) 284B

—O. 9, R. 13—Sufficient cause—That a woman defendant gave birth to a child 6 days before date of hearing was sufficient cause for her absence in Court—Assuming she gave birth to the child 6 days after the date of hearing would make no difference in existence of sufficient cause—Whichever

Civil P. C. (contd.)

version was true she would be unable to attend Court on date of hearing (Apr) 77A

—O. 9, R. 13, *Proviso* — Several defendants — Decree in favour of some Ex parte against others — Setting aside of ex parte decree — Effect — Proviso will not apply (Apr) 77B

—O. 9, R. 13, S. 115 — Ex parte preliminary decree in foreclosure suit passed on 9-4-1963 — Application for setting aside ex parte decree filed by defendant on 15-4-1965 — Application dismissed by trial court and first appellate court — Revision Question whether summons was not duly served on him Essentially this is question of fact and does not relate to domain of jurisdiction and is not to be ordinarily interfered with — Court failing to bestow attention on crucial factors in evidence lending some probability on defence version — Order of appellate court set aside — Case remanded for rehearing of appeal (Aug) 183

—O. 9, R. 13, *Proviso* — Ex parte decree against defendants — Knowledge of decree to only some within thirty days — Application to set aside by others — See Limitation Act (1963), Art. 123 (Aug) 196

—O. 9, R. 13 — Illegal exercise of jurisdiction under Rule — Order will be interfered with in revision — See Civil P. C. (1908), S. 115 (c) (Nov) 284B

—O. 9, R. 13 (1), *proviso* — Suit against mother and her illegitimate minor son for nullification of parenthood and cancellation of maintenance allowance to him — Ex parte decree against both held to be nullity as against the minor — Causes of action against mother and her son being intertwined, decree against mother also is liable to be set aside (Mar) 52B

—O. 14, R. 2 — Issues as to maintainability of suit on ground of limitation and O. 2, R. 2 — May not be decided as preliminary issues — Suit must be tried as whole and not piecemeal unless question of jurisdiction is involved — See Civil P. C. (1908), S. 115 (Dec) 295

—O. 20, R. 3 — Alteration of decree — Time specified by decree for deposit of purchase money — Extension of time — Principles — See Civil P. C. (1908), S. 148 (Jan) 7B

—O. 20, R. 7 — Decree incorporating orders of High Court for costs of defendant to be drawn up by Registrar but signed by Deputy Registrar — Decree notified but no objection that decree was not drawn up by Registrar taken — Held decree was in order — Under High Court Rules decree is to be signed by Deputy Registrar — See Civil Procedure Code (5 of 1908), O. 23, R. 1 (June) 134C

Civil P. C. (contd.)

—O. 21, R. 2 || Agreement against execution — Question whether agreement is bar to execution — Agreement not superseding decree — Executing Court can decide the effect of agreement under S. 47 subject to O. 21, R. 2 — See Civil P. C. (1908), S. 47 (Feb) 32C

—O. 21, R. 10 — Suit for damages for taking forcible possession — Transfer of land with claim for damages pending suit — Transferee not substituted — Decree in favour of transferor — Execution by transferee Claim for damages, transfer of, not barred — See Civil P. C. (1908), O. 22, R. 10 (June) 142

—O. 21, R. 29 — Stay of execution case pending another suit against decree-holder — When can be granted — Manner in which the discretion under R. 29 should be exercised, indicated (Sep) 233

—O. 21, R. 58 — Sale of disputed property by A, B and C in favour of D — E attached property in execution of his decree against A, B and C — D's objection under O. 21, R. 58 dismissed — D's suit under O. 21, R. 63 as well as for declaration of his title — Sale by A, B, C in favour of F — E was also party in D's suit but his name was expunged as E's claim was satisfied — D's suit was decreed — Suit filed by F decreed against A, B and C but dismissed against D — In execution of money decree F attaching disputed property — A, B and C not having any subsisting interest in property — Objection by D under O. 21, R. 58 — D's objection must succeed — See Civil P. C. (1908), O. 21, R. 63 (Jan) 16A

—O. 21, R. 63, 58 — Sale of disputed property by A, B and C in favour of D — E attached property in execution of his decree against A, B and C — D's objection under O. 21, R. 58 dismissed — D's suit under O. 21, R. 63 as well as for declaration of his title — Sale by A, B, C in favour of F — E was also party in D's suit but his name was expunged as E's claim was satisfied — D's suit was decreed — Suit filed by F decreed against A, B and C but dismissed against D — In execution of money decree F attaching disputed property — A, B and C not having any subsisting interest in property — Objection by D under O. 21, R. 58 — D's objection must succeed (Jan) 16A

—O. 21, R. 63, O. 1, R. 10, S. 11 — Suit under — Judgment debtors are not necessary parties but made parties — Effect (Jan) 16B

—O. 21, R. 89 — Suit to set aside sale — Bar — See Tenancy Laws — Orissa Tenancy Act (13 of 1948), S. 228 (Apr) 67C

—O. 21, R. 89 — Conditional deposit — What is — Judgment-debtor making statement of

Civil P. C. (contd.)

fact which did not present withdrawal of money — Deposit not a conditional one

(Nov) 278B

— *O. 21, R. 89, S. 151* — Tender of amount — Application for setting aside sale accompanied with chalan for amount — Executing Court receiving stay order and therefore not acting upon chalan one way or the other — Even if chalan was not properly filled up, the laches were of the Court for which party should not suffer — Tender held valid

(Nov) 278C

— *O. 21, R. 90* — Finding that sale proclamation was not published at the site is one of pure fact — Cannot be disturbed in revision—See Civil P. C. (1908), S. 115

(Mar) 63A

— *O. 21, R. 90* — Setting aside sale—Application for prima facie barred — Invoking S. 17, Limitation Act to save limitation — Nature of proof required to prove fraud—See Limitation Act (1963), S. 17

(Mar) 63C

— *O. 21, R. 90* — Order dismissing application as time barred — Appellate Court reversed the same on an erroneous view of law on question of fraud—Effect—See Civil P. C. (1908), S. 115

(Mar) 63D

— *O. 21, R. 90* — Suit to set aside sale—Bar — See: Tenancy Laws — Orissa Tenancy Act (13 of 1948), S. 228

(Apr) 67C

— *O. 21, R. 90* — Mortgage decree—Execution sale — Confirmation — Objection to delivery of possession — Order falls under S. 151—Is revisable under S. 115 only—See Civil P. C. (1908), S. 47

(June) 144

— *O. 22, R. 3 and Ss. 100-101* — Abatement of appeal — Omission to bring on record some of the heirs of deceased—Held on facts omission was not fatal and appeal did not abate

(June) 134D

— *O. 22, R. 10, O. 21, R. 10 and S. 2 (3)* — Suit for damages for taking forcible possession — Land together with claim for damages transferred pending suit — Transferee not substituted in the place of plaintiff—Decree in favour of transferor (plaintiff), held, could be executed by transferee—Transfer of claim, for damages, held, not barred by S. 6 (a), T. P. Act

(June) 142

— *O. 22, R. 10(1)* — Sale during pendency of injunction—Purchaser should be impleaded as defendant—See Civil P. C. (1908), O. 39, R. 1

(Aug) 195

— *O. 23, R. 1 and O. 20, R. 7* — High Court Rules and Orders — Orissa High Court Rules 1948—Withdrawal of suit allowed on condition that plaintiff would deposit in Court costs of defendants and that such costs should be assessed by Registrar and fixed and decree of High Court would be drawn up incorporating conditions indi-

Civil P. C. (contd.)

cated therein — Decree prepared in High Court and costs assessed — But decree was signed by Deputy Registrar — Decree was notified and no objection was taken that costs were not assessed by Registrar—Entire cost deposited before institution of suit — Held the condition precedent was fulfilled and suit was maintainable—Under rules of High Court decree is to be signed by Deputy Registrar

(June) 134C

— *O. 23, R. 3* — Partition Act (1893), S. 4—Partition between two brothers A and B — Dwelling house not partitioned — Partition suit by transferee of undivided share of A—B claiming to repurchase — Fixation of value by Commissioner—Plaintiff demanding high price — Compromise to repurchase at some high price — B failing to deposit money and repurchase the property within stipulated period—Held it could not be said that B acted against interest of family in agreeing to pay high price when there was contest between plaintiff and defendant regarding valuation

(Dec) 294B

— *O. 32, R. 11 (2)* — Suit against mother and her minor son through her as guardian—Non-appearance of mother — Failure to appoint Court guardian — Ex parte decree passed against both — Decree is nullity against the minor

(Mar) 52A

— *O. 33, R. 2* — Non-compliance with provisions—Order passed is revisable—See Civil P. C. (1908), S. 115

(Jan) 10A

— *O. 33, R. 2* — Plaintiff receiving some properties — In due course his title over them is extinguished—In application to sue in forma pauperis plaintiff ought to show the properties and aver that his title is no longer there — Without such averment the application is liable to be thrown out

(Jan) 10C

— *O. 34, R. 5* — Execution sale of mortgaged property—Confirmation of sale — Objection to delivery of possession, not within purview of S. 47 — Revision lies against such order — See Civil P. C. (1908), S. 47

(June) 144

— *O. 39, R. 1 and O. 22, R. 10 (1) and S. 64* — Temporary injunction—Sale of property in dispute during injunction period—Sale not nullity—Purchaser has to be permitted to be impleaded as defendant

(Aug) 195

— *O. 41, R. 23* — Remand — Lack of evidence—Case should be remanded for further evidence—See Court Fees and Suits Valuations—Court-fees Act (1870), S. 7 (v) (c)

(Oct) 257C

— *O. 41, R. 25* — Order of remand illegal — Bar under S. 105 (c) does not apply — See Civil P. C. (1908), S. 105

(Apr) 67B

CIVIL SERVICES

- All India Services Act (61 of 1951), S. 3 (1)
 —All India Services (Death-cum-Retirement Benefit) Rules (1958), R. 16 (3)—Validity — Executive order directing member of Service to prematurely retire from service in public interest—Order is not discriminatory (Mar) 37B
 —S. 3 (1)—All India Services (Death-cum-Retirement Benefit) Rules (1958), R. 16 (3)—Order passed under — Court cannot look into background resulting in passing of order in order to discover whether some kind of stigma could be inferred (Mar) 37D
 —S. 3 (1)—All India Services (Death-cum-Retirement Benefit) Rules (1958), R. 16 (3)—Compulsory retirement in public interest — So long as age of compulsory retirement and period of qualifying service for such retirement fixed by rules are reasonable, Art. 311 of Constitution is not attracted (Mar) 37E
 —S. 3 (1) — All India Services (Death-cum-Retirement Benefit) Rules (1958), R. 16 (3)—Conditions mentioned in rule are reasonable and cannot be said to be arbitrary (Mar) 37F
 —All India Services (Death cum Retirement Benefit) Rules (1958), R. 16 (3) — See Civil Services—All India Services Act (1951), S. 3 (3) (Mar) 37B
 —R. 16 (3) — Compulsory retirement — When amounts to removal or dismissal—See Constitution of India, Art. 311 (Mar) 37C
 —R. 16 (3)—Order passed under—Validity —See Civil Services—All India Services Act (1951), S. 3 (1) (Mar) 37D
 —R. 16 (3) — Compulsory retirement — Order in public interest—Art. 311 of the Constitution, whether attracted — See Civil services — All India Services Act (1951), S. 3 (1) (Mar) 37E
 —R. 16 (3) — Validity—See All India Services Act (1951), S. 3 (1) (Mar) 37F
 —Civil Services (Classification, Control and Appeal) Rules (1930), Rr. 49, 55 — Penalties of 'censure' and suspension' — Delinquent not required to be asked to show cause against such penalty (Sep) 224A
 —R. 55—No show cause notice necessary for penalties of 'censure' and "suspension"—See Civil Services (Classification, Control and Appeal) Rules (1930), R. 49 (Sep) 224A
 —Orissa Ministerial Service Rules, 1963, R. 9
 —Promotion of Government servant — Unambiguous order of promotion — Promotees governed only by the order — See Constitution of India, Art. 309 (Jan) 13
 —Orissa Service Code, R. 91(5)—Order under sub-rule (5) — Opportunity to show cause must be afforded (Sep) 224C

Civil Services (contd.)

- Orissa Superior Judicial Service Rules (1963), R. 6:(1)(3)—Disqualifications arising from marriage — Restrictions imposed in sub-rules (1), (3) of R. 6 are not absolute — They involve only reasonable classification for maintenance of efficiency of service and are not discriminatory (Sep) 237F
 —R. 6 (2) — Appointment to post of District Judge — Rule purporting to disqualify woman on ground of marriage—In substance rules disqualify on ground of sex only — Discriminatory in nature — Violates Art. 14 of Constitution (Sep) 237E
 —R. 6 (4) — Disqualification for appointment on ground of language — Object — Regulation of conditions of service for maintaining efficiency—Rule cannot be challenged as discriminatory (Sep) 237G
 —R. 8 (2) (ii)—Advertisement inviting application for post of District Judge—Date fixed in advertisement for counting of age and period of standing — No rules conferring authority for fixing such date — Advertisement held not valid (Sep) 237C
 —R. 8 (2) (iii)—Recruitment of District Judges from Bar—Rules prescribing age-groups indicative of maturity — Rules not violative of Art. 16 of Constitution — See Constitution of India, Art. 14 (Sep) 237B
 —R. 8 (2) (iii) — Constitution of India, Arts. 233 (2), 14 — Appointment of District Judges — Governor to appoint District Judges on recommendation by High Court—Discretion of Governor in making appointment—Rule providing for selection of candidate by Governor out of list of names recommended by High Court — Rule is for guidance of Governor in exercising his discretion — Not discriminatory and clothing Governor with unguided and arbitrary power to discriminate between candidates out of list supplied by High Court—It in no way offends Art. 14 of Constitution (Sep) 237D
 —Civil Services (Classification, Control and Appeal) Rules (1930)
 See under Civil Services.
 —Companies Act (1 of 1956), S. 17 — Alteration of Memorandum of Association Alteration in objects to enable Company to carry on new business — Extent of power — Confirmation by Court—Matters to be considered (Apr) 91B
 —Ss. 17 (1) (a) and 293 (1) (e)—Alteration in Memorandum — Amendment enabling Company to make contributions towards natural or political objects or political party — Not contrary to law — Court not to refuse confirmation merely because it may conflict with proposed legislation (Apr) 91A

Companies Act (contd.)

—S. 220 (1) — Prosecution for non-compliance with requirements of — Fact that no Annual General Meeting was called is no defence. AIR 1948 Bom 357 and AIR 1937 Mad 342 Held no longer good law in view of AIR 1961 SC 186 (Sep) 234

—S. 293 (1) (e) — Alteration of memorandum Amendment of Legality — See Companies Act (1956), S. 17 (1) (a) (Apr) 91A

Constitution of India, Art. 14 — Order directing member of Service to prematurely retire from service in public interest Order is not discriminatory — See All India Services Act (1951), S. 3 (1) (Mar) 37B

—Art. 14 — Territorial classification Admission to Medical Colleges in State Government directive specifying merit-cum-regionwise classification as basis of selection—Violates Art. 14 (Apr) 80B

—Arts. 14 — Admission to educational institution — Government directive to selection Board abruptly changing the basis of selection to the detriment of students — Legality — See Constitution of India, Art. 226 (Apr) 80D

—Arts. 14, 16 — Orissa Superior Judicial Service Rules (1963), Rule 8 (2) (iii) — Rule prescribing age group for recruitment of District Judges direct from Bar — Age group indicative of sufficient maturity as basis for classification — Classification is reasonable and not discriminatory — Does not violate Art. 14 of Constitution (Sep) 237B

—Art. 14 — Appointment of District Judges — Governor to select candidates from panel recommended by High Court — Governor not clothed with unguided and arbitrary powers — Art. 14 not violated — See Civil Services — Orissa Superior Judicial Service Rules (1963), R. 8 (2) (iii) (Sep) 237D

—Art. 14 — Rule disqualifying married woman from being selected to posts of District Judges — Rule discriminatory on grounds of sex only — Violates Art. 14 of Constitution — See Civil Services — Orissa Superior Judicial Service Rules (1963), R. 6 (2) (Sep) 237E

—Art. 14 — Appointment to post of District Judge — Restriction against employment of woman whose husband has another wife living — Reasonable classification not violative of Art. 14 — See Civil Services — Orissa Superior Judicial Service Rules (1963), R. 6 (1), (3) (Sep) 237F

—Art. 15 — Admission to educational institution — Sudden change in basis of section to the detriment of candidate — Legality — See Constitution of India, Art. 226 (Apr) 80D

—Art. 15 (1) — Counter affidavits — Allegation that impugned Government directive

Constitution of India (contd.)

involves discrimination solely on ground of place of birth — Not controverted in counter affidavit — Allegation must be held to have been admitted and as such violative of Art. 15 (1) — See Constitution of India, Art. 226 (Apr) 80C

—Art. 16 — Recruitment of District Judges from Bar — Rules prescribing age-group indicative of maturity — Rules not violative of Art. 16 — See Constitution of India, Art. 14 (Sep) 237B

—Art. 16 — Rule disqualifying married women from being selected to post of District Judges — Rule discriminatory on grounds of sex only — Violates Art. 14 of Constitution — See Civil Services — Orissa Superior Judicial Service Rules (1963), R. 6 (2) (Sep) 237E

—Art. 16 — Appointment to Orissa judicial service — Restriction against employment of person not knowing Oriya language not violative of Constitution — See Civil Services — Orissa Superior Judicial Service Rules (1963), R. 6 (4) (Sep) 237G

—Art. 31 — Word “person” — Managing Committee of School is a “person” — Application under Art. 226 can be filed by the Managing Committee claiming fundamental right to property — See Constitution of India, Art. 226 (Feb) 32A

—Art. 141 — First Division Bench decision No overruling by subsequent Division Bench on palpable error in former Matter should be referred to larger Bench Decision however need not be followed if it ceased to be good law by reason of Supreme Court decision — See Civil P. C. (1908), Preamble (Dec) 299B

—Arts. 226, 367, 31 — Word “person” — Managing Committee of School is a “person” — Application under Art. 226 can be filed by the Managing Committee claiming fundamental right to property (Feb) 30A

—Art. 226 — Parties Non-joinder — Writ petition challenging selection of candidates for admission to Government Medical Colleges in State List of candidates published expressly stating that candidates were ‘provisionally admitted’ and in case of their failure to report for medical examination and admission by a certain date their names would be struck off Writ petition by non-selected candidates is not unmaintainable for non-joinder of selected candidates as opposite parties especially when Court has made it clear that their selection will not be disturbed (Apr) 80A

—Arts. 226 and 15 (1) — Counter affidavits Allegation in writ petition that impugned Government directive involves discrimination solely on ground of place of birth not controverted in counter-affidavit by Government

Constitution of India (contd.)

opposite party Allegation must be held to have been admitted and as such violative of Art. 15 (1)—(Civil P. C. (1908), O. S. R. 5)

(Apr) 80C

—*Arts. 226, 14, 15* — Admission to educational institution—Inviting of applications for admission to Medical Colleges in State on certain representation with regard to selection of candidates Candidates applying for admission acting on that representation Government directive to selection Board changing abruptly basis of selection to detriment of candidates—Legality Principle of equitable estoppel Applicability—Power of High Court to grant appropriate relief in such cases — (Evidence Act (1972), S. 115)

(Apr) 80D

—*Art. 226* — Certiorari — Principles of natural justice—Applicability to University disciplinary action - Candidate asking for materials proposed to be used against him in support of charges—Materials not supplied but used—Penalty imposed—Principles violated - Hence penalty unsustainable

(Apr) 89

—*Art. 226*—Bias - Contempt proceeding Alleged contempt by scandalising Chief Justice and other Judges of High Court Each hearing proceeding consisting of Chief Justice himself—Contempt of Courts Act (1952), S. 5

(May) 117A

—*Arts. 226, 227*—Mineral Concession Rules (1960), Rr. 24 (3), 55 — Order of Central Government under R. 55 setting aside deemed refusal of lease and directing State Government to grant lease — State Government is bound to carry it out - On failure writ under Arts. 226, 227 for direction to carry out the order is maintainable

(July) 163

—*Art. 226*—State Government not complying with orders of Central Government, passed under Rr. 54/55, Mineral Concession Rules (1960) — Writ to compel State Government can be issued See Mines and Minerals (Regulation and Development) Act (1957), S. 28

(July) 165

—*Art. 226*—Bihar and Orissa Excise Act (2 of 1915), S. 27 Countervailing duty on foreign liquor collected by mistake - Claim for refund made within three years from date of knowledge of mistake - Writ is maintainable Limitation Act (1908), Art. 96

(Aug) 180

—*Arts. 226 and 265*—Illegal levy of excise duty - Repayment of amount can be ordered — Orissa Excise Rules, 1965, R. 103 (1)

(Aug) 182

—*Art. 226*—Principles of natural justice—Domestic inquiry - Action against student for mal-practices in examination hall — Mal-practices Enquiry Committee exercis-

Constitution of India (contd.)

ing quasi-judicial function not being a Court is not bound to follow procedure prescribed for trials in Courts nor by strict rules of evidence. Held on facts and circumstances that in absence of any statutory rules principles of natural justice had been followed in course of proceedings

(Aug) 206

—*Art. 226*—Natural justice Principles of

Person required to answer charge must know accusation and also testimony by which it is sought to be proved Not a single witness examined on behalf of employer, before delinquent was subjected to examination by questions and answers - Held, enquiry was vitiated as it was not in accordance with principles of natural justice

(Sep) 209B

—*Art. 226*—Domestic enquiry—Validity—

Enquiry Committee utilising statements of witnesses without examining them in presence of delinquent, without giving him opportunity to cross-examine them and even without showing their statements to delinquent — Held enquiry was unfair and, therefore, vitiated

(Sep) 209C

—*Art. 226*—Domestic enquiry—Validity—

Report of enquiry committee only catalogue of facts or evidence without any inference or finding — After submission of report to punishing authority, he too not recording his conclusions on evidence recorded by Enquiry Committee and straightway calling upon delinquent to show cause why he should not be dismissed Held there was serious infirmity in enquiry

(Sep) 209D

—*Art. 226* — Mandamus against Government on denial of petitioner's right to pension—Petitioner, a Jamadar in Armed Police Force on contract service, opting for post-War Conditions of Service Rules which provided for contributory Provident Fund — Petitioner entitled to pension after retirement under Orissa Government Press Communique dated 5.3.1948—Concerned authorities not making appropriate deductions towards Provident Fund from his salary month to month — Petitioner held could be deemed to have contributed towards Provident Fund—He could not be penalised for omission on the part of authorities to make deductions—State Government had to recognise his right to pension under the Press Communique

(Nov) 293

—*Art. 226*—Natural Justice—Termination of service of school teacher—No hearing given—Violation of principles of natural justice—See Education — Orissa Education Code, Art. 336

(Dec) 293

—*Art. 226* — Habeas Corpus—Order of remand under S. 344, Criminal P. C., by a

Constitution of India (contd.)

Magistrate having no jurisdiction to try case is illegal—Detention under such order is illegal—Accused subsequently produced by police before Magistrate having jurisdiction to try case and remanded to jail custody under S. 344—*See* Criminal P. C. (1898), S. 167

(Dec) 296A

—*Art. 226* — Habeas Corpus — Accused cannot be released under S. 491, Criminal P. C., merely because of the antecedent illegality of detention when detention is legal at the relevant date — *See* Criminal P.C. (1898), S. 491

(Dec) 296B

—*Art. 227* — Orders of Central Government under R. 54 of Mineral Concession Rules (1960) — Order is judicial determination—State Government not complying with order—Writ to compel, can be issued — *See* Constitution of India, Art. 226 (July) 163A

—*Art. 227* — State Government not complying with orders of Central Government, passed under Rr. 54/55, Mineral Concession Rules (1966)—Writ to compel State Government can be issued — *See* Mines and Minerals (Regulation and Development) Act (1957), S. 28

(July) 165

—*Art. 233 (2)* — Appointment of District judges — Governor to select candidates from panel recommended by High Court—Governor not clothed with unguided and arbitrary powers — Art. 14 of Constitution not violated — *See* Civil Services Orissa Superior Judicial Service Rules (1963), R. 8 (2) (iii)

(Sep) 237D

—*Art. 256* — State Government bound to carry out orders of Central Government, passed under Rr. 54 and 55 of Mineral Concession Rules (1960) — *See* Mines and Minerals (Regulation and Development) Act (1957), S. 28

(July) 165

—*Art. 257* — State Government bound to carry out orders of Central Government, passed under Rr. 54 and 55 of Mineral Concession Rules (1960) — *See* Mines and Minerals (Regulation and Development) Act (1957), S. 28

(July) 165

—*Art. 268* — Delegation by President of functions of Central Government under the article — *See* Minimum Wages Act (1948), S. 3

(May) 110C

—*Art. 265*—Illegal levy of excise duty — Refund can be ordered, subject to limitation — *See* Constitution of India, Art. 226

(Aug) 182

—*Arts. 284, 324* — Representation of the People Act (1950), S. 28 — Registration of Electors Rules, 1960 under S. 25 — Rule 33 — Price of electoral rolls — Right to recover whether of Union of India or of State Government — Suit to recover price filed by State Government held competent (Oct) 263

Constitution of India (contd.)

—*Art. 299* — Provision is mandatory — Principle underlying it stated—Essentials of the contract under Art. 299 (July) 152C

—*Art. 299* — Mining lease executed in Form K under Rule 31, Mineral Concession Rules (1960) or as close to Form K — Sufficient compliance with Art. 299 — *See* Mines and Minerals (Regulation and Development) Act (1957), S. 28

(July) 165

—*Art. 299 (1)* — Object of — Requires a formal written deed — Oral contract or contract by correspondence not within the article

(July) 152B

—*Art. 299 (1)*—Contract under— Implications arising out of the contract— Nature of

(July) 152D

—*Art. 299 (1)* — Mines and Minerals (Regulation and Development) Act (1957), S. 5 — Mining lease — Court cannot import implied terms

(July) 152E

—*Art. 299 (1)*—Contract with Government — Construction of bridge minus superstructure — Construction of superstructure under fresh agreement — Agreement held in compliance with Art. 299 (1) — *See* Arbitration Act (10 of 1940), S. 8 (2)

(Nov) 274

—*Art. 309* — Promotion of Government Servant — Unambiguous order of promotion — Promotees governed only by the order

(Jan) 13

—*Art. 309, Proviso*— Government can issue administrative instructions to regulate service conditions without any rules made in exercise of powers under proviso — Rules being silent, such field as not covered by instructions which may be supplementary to rules but rules cannot be amended or superseded by instructions

(Mar) 37A

—*Art. 309* — Temporary appointment for a fixed period to officiate in a post — Revision before expiry of period is illegal — *See* Constitution of India, Art. 311 (2)

(Mar) 61

—*Art. 309* — Governor has power to make rules for appointment of District Judges — Rules — not in conflict with any provision of Constitution cannot be challenged

(Sep) 237A

—*Art. 311* — Termination of service by compulsory retirement—Tests to be applied for ascertaining whether termination amounts to removal or dismissal

(Mar) 87C

—*Art. 311*—Order of compulsory retirement when amounts to "removal" within the article—*See* All India Services Act (1951), S. 3 (1)

(Mar) 37D

—*Art. 311* — Order of compulsory retirement in public interest—Article if attracted — *See* All India Services Act (1951), S. 3 (1)

(Mar) 37E

Constitution of India (contd.)

—*Art. 311* — Government servant holding higher rank on temporary basis—Reversion to substantive post — Juniors allowed to continue in the higher post — Order reverting casting no stigma — Order, held, could not be quashed (Sep) 215A

—*Art. 311*—Approved probationer—Status of (Sep) 215B

—*Art. 311* — Punishment of suspension cannot be treated as reduction in rank (Sep) 224B

—*Art. 311 (2)*—Resolutions dated 21.5.1963 and 15.9.1965 of Government of Orissa, Political and Services Department—Raising of retirement age to 58 years, unequivocally — Government servant attaining 55 years, consequently continuing in service for 2 more years — His compulsory retirement thereafter without giving reason is illegal (Mar) 45

—*Arts. 311 (2) and 309*—Temporary appointment for a fixed period to officiate in a post—Reversion to lower rank before expiry of such period—Nothing in appointment order permitting such premature termination—Reversion illegal (Mar) 61

—*Art. 324* — Election — Superintendence and control of—Staff necessary how allotted—See Constitution of India, Art. 284 (Oct) 263

—*Arts. 341 (1) and 342 (1)*—Benefit, held could not be claimed by the petitioner—Petitioner not a member of scheduled tribe in relation to the State in which he is residing—S. 2 of Central Act XLIV of 1957 cannot override provisions of the Constitution—Para 2 of Constitution (Scheduled Tribes) Order, 1950, supports the view—(Public Employment (Requirement as to Residence) Act, 1957, S. 2)—(Constitution (Scheduled Tribes) Order, 1950, Para 2) (Sep) 220

—*Art. 342 (1)* — Benefit could not be claimed by a person who is not a member of scheduled tribe in relation to the State in which he is residing—S. 2 of Central Act XLIV of 1957 cannot override provisions of the Constitution—Para 2 of Constitution (Scheduled Tribes) Order, 1950, supports the view—See Constitution of India, Art. 341 (1) (Sep) 220

—*Art. 367*—Word "person" — Managing Committee of School is a "person"—Application under Art. 226 can be filed by the Managing Committee claiming fundamental right to property—See Constitution of India, Art. 226 (Feb) 30A

Constitution (Scheduled Tribes) Order (1950), Para 2—Benefit could not be claimed by a person who is not a member of scheduled tribe in relation to the State in which he is

Constitution (Scheduled Tribes) Order (contd.) residing—S. 2 of Central Act XLIV of 1957 cannot override provisions of the Constitution—Para 2 of Constitution (Scheduled Tribes) Order, 1950, supports the view—See Constitution of India, Art. 341 (1) (Sep) 220

Contempt of Courts Act (32 of 1952), S. 1—Writ petition against ministry pending decision—Speech of Chief Justice on flag-hoisting day appreciating co-operation of Chief Minister in getting High Court tower built—Petition before High Court protesting against speech and making derogatory remarks against High Court Judges—Petition held scandalised judges, and tended to interfere with due course of law—Actual interference need not be established (May) 117C

—*S. 1*—Position of journalists in matter of contempt of court explained (May) 117F

—*Ss. 1, 5*—Rule for contempt, issue of — Contents (May) 117H

—*S. 3*—Practice — Derogatory remarks against certain actions and remarks by Chief Justice in a speech on flag-hoisting ceremony in High Court — Contempt proceedings arising out of such remarks for scandalising Chief Justice—Chief Justice himself member of Bench hearing contempt proceedings—Matters being within knowledge of the Chief Justice the reasons why the Chief Justice took particular course of action during flag-hoisting ceremony have to be stated in the judgment itself, in the contempt proceedings (May) 117B

—*Ss. 3 and 5*—Power of committal for contempt of court when to be exercised (May) 117D

—*Ss. 3, 4*—Representation petition containing passages constituting contempt of court by scandalising the High Court and the judges with a view to diverting due course of justice—Advocates signing the petition, asserting that it was their duty as Advocates to place their client's cause fearlessly before the Court, relying on Rule 15 of rules framed under S. 49 (c), Advocates Act, 1961—Held that Rule 15 envisages that Advocate shall fearlessly uphold the lawful interest of his client, befitting his status as an officer of court—Rule 15 is subject to the Preamble of the rules and Rules 3 and 4 which state that he shall not influence decision of court by illegal or improper means and that he shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practice and that he shall not be a mere mouthpiece of his client—Rules do not alter the position of an Advocate who is primarily an officer of the Court which cannot override his

Contempt of Courts Act (contd.) — duty to client — The conduct of the Advocates signing the petition, amounted to contempt of Court—Advocates Act (1961), S. 49 (c), Rules under, Preamble, Rules 15, 3, 4 (May) 117E

—S. 3—Remarks against Chief Justice as administrative head, as bringing administration of justice into disrepute—When contempt—Tests indicated (May) 117I

—S. 4—See Contempt of Courts Act (1952), S. 3 (May) 117E

—S. 4 — Petition containing matters amounting to contempt of Court signed by senior advocate who was former Advocate General — Action wrongly justified on ground of duty towards client—Forgiveness asked for—Advocate directed to pay fine of Rs. 100—Petitioner's plea that it was the result of misunderstanding and asking for forgiveness — Petitioner sentenced to fine of Rs. 300 (May) 117G

—S. 4—Apology and justification cannot go together (May) 117J

—S. 5 — Bias — Contempt proceeding — Alleged contempt by scandalising Chief Justice and other judges of High Court— Bench hearing proceeding consisting of Chief Justice himself—Contempt of Courts Act (1952), S. 5—See Constitution of India, Art. 226 (May) 117A

—S. 5—Power of committal for contempt of court when to be exercised—See Contempt of Courts Act (1952), S. 3 (May) 117D

—S. 5—Rule for contempt, issue of—Contents—See Contempt of Courts Act (1952), S. 1 (May) 117H

Contract Act (9 of 1872), S. 2 (b)—Acceptance of proposal—Can be inferred from facts and circumstances of case (Dec) 301B

—S. 2 (c)—Mining lease—Supply of land and electricity not term of the lease—Lessee requesting for help and assistance of Government to get them—Replies by Government—Not an agreement (July) 152A

—S. 25 sub.s. (3)—Promise to pay barred debt—Barred debt is valid consideration—Promisor need not be conscious that the debt was barred. (1910) 20 Mad L J 656 & AIR 1963 Andh-Pra 337, Diss from (Dec) 301A

—S. 56—Contract becoming impossible—Force majeure — Meaning—Force majeure clause—Rule of ejusdem generis applies—(Words and Phrases—Force majeure) (July) 152F

—S. 65 — Plaintiff agreeing to adjust amounts due from defendant — Defendant agreeing to convey his lands to plaintiff— Agreement not void ab initio — Plaintiff entitled to his dues both under Ss. 65 and S. 70—See Contract Act (1872), S. 70 (July) 171C

Contract Act (contd.) —Ss. 70, 65—Plaintiff agreeing to adjustment of amount due to him from defendant — Defendant to convey title in lands to him after conversion into raiyati—Contract is not void ab initio— Plaintiff is entitled for refund under S. 65 as well as under S. 70 (July) 171E

—S. 72—Illegal levy of excise duty—Refund can be ordered, subject to limitation—See Constitution of India, Art. 226 (Aug) 182

Court-fees Act (7 of 1870)

See under Court-fees and Suits Valuations.

COURT-FEES AND SUITS VALUATIONS

—**Court-fees Act (7 of 1870), S. 7 (v) (b), and 7, (v) (d) (Orissa)** — Applicability — Disputed land constituting definite share of estate — Valuation for purposes of court-fee and jurisdiction, stated (Oct) 262

—S. 7 (v)(c) and (v) (c)—Applicability — Reversionary suit—Only S. 7 (v) (c) is applicable (Oct) 257A

—S. 7 (v) (c)—Scope—Court-fees and valuation of suit for jurisdiction—Suit governed by S. 7 (v) (c) — Subject matter of suit, land—No rules under S. 3 of Suits Valuation Act framed—Lower court not calculating market value as prescribed under S. 7 (v) (c) —On evidence produced, comparison of land discussed in evidence and suit land not possible—Evidence not helpful in deciding jurisdictional value—Lower Court taking market value of such land in 1937, year of sale of that land, as jurisdictional value—In taking jurisdictional value, lower Court commits serious illegality—Lower Court has to decide market value of land on date of suit on evidence on record—If suit is within its pecuniary jurisdiction, suit must be tried without calling for further court-fees (Oct) 257C

—S. 7 (xi) (e) and Sch. II, Art. 5 (Orissa) — Plaintiff claiming occupancy rights in land — Suit for recovery of such land from landlord—Proceedings under S. 145, Criminal P. C., ending in favour of landlord — Land vesting in State under Orissa Estates Abolition Act—Yet suit valued as between landlord and tenant—Section 7 (xi) (e) does not apply—Court-fee must be paid on market value of lands (Jun) 140A

—Sch. II, Art. 5 (Orissa)—Suit for recovery of land over which occupancy rights were claimed—Proceedings under S. 145, Criminal P. C., ending in plaintiff's favour—Vesting of land in the States—Court-fees must be paid on market value of land—Section 7 (xi) (c) does not apply—See Court fees Act (1870), S. 7 (xi) (c) (June) 140A

Court-fees and Suits Valuations—Court-fees Act (contd.)

—*Sch. II, Art. 17A (Orissa)*—Interpretation of Cols. 1 and 3—Suit for partition Appeal—Jurisdictional value should be same as that of plaint and same court-fee is payable (July) 167

—*Sch. II, Art. 17A (Orissa)*—Partition suit for allotment of 1/4th share in properties described in plaint Schedules A & B On appeal defendant challenging 1/4th share only in B Schedule properties—Jurisdictional value of subject matter in dispute in suit was the criterion and not the value of subject matter in dispute in appeal (Oct) 265A

—*Sch. II, Art. 17A (Orissa)*—Applicability—Frame of suit is the criterion Suit for partition and allotment of properties in joint possession—Article 17A is attracted (Oct) 265B

—*Suits Valuation Act (7 of 1887), S. 3*—Valuation of suit for jurisdiction No rules framed under S. 3—Market value of land on date of suit should be considered—*See Court Fees and Suits Valuations—Court-fees Act (1870), S. 7 (v) (c)* (Oct) 257C

—*S. 8*—When should court-fee value and jurisdictional value of suit should be same—*See Court-fees and Suits Valuations—Court-fees Act (1870), S. 7 (v) (c)* (Oct) 257C

Criminal Procedure Code (5 of 1898), S. 4 (h)

—Final report by police—Protest petition with request to call upon police to submit charge-sheet and to take action against opposite party—Protest petition was to be treated as petition of complaint—*See Criminal P. C. (1898), S. 200* (July) 149

—*S. 35*—Word 'may' It not only confers a power but also imposes a duty of putting it in use—Passing of cumulative sentence—Duty of Court (July) 146

—*S. 156*—Final report by police—The Magistrate had no power to call for a charge sheet—*See Criminal P. C. (1898), S. 200* (July) 149

—*Ss. 162 and 164*—Judicial confession—Admissible without examining Magistrate before whom it was made (Dec) 289E

—*S. 164*—Evidence Act (1872), *Ss. 145 and 157*—Statement of witness under *S. 164*—Can be used for purposes of corroboration or contradiction of the witness (Dec) 289B

—*S. 164*—Judicial confession—Admissible without examination of magistrate before whom it was made—*See Criminal P. C. (1898), S. 162* (Dec) 289E

—*S. 164 (1) and (2)*—Provision covers even non-confessional statement Such statement is evidence if it is relevant and admis-

Criminal P. C. (contd.) (Oct) 245D
sible under any of the provisions of the Evidence Act.

—*S. 164(3)*—Magistrate's duty before recording confession—Failure to tell the accused that he was not bound to confess—Confession recorded, held, could not be relied upon (Oct) 245E

—*Ss. 167 and 344*—Distinction between—Order of remand under *S. 344* by a Magistrate having no jurisdiction to try case is illegal—Detention under such order is illegal—Accused subsequently produced by police before Magistrate having jurisdiction to try case and remanded to jail custody under *S. 344*—Subsequent detention is legal (Dec) 296A

—*S. 169*—Final report by police—Magistrate had no power to call for a charge sheet—*See Criminal P. C. (1898), S. 200* (July) 149

—*S. 173*—Final report by police—Magistrate had no power to call for a charge-sheet—*See Criminal P. C. (1898), S. 200* (July) 149

—*S. 193 (3)*—Superior Appellate Court—*See Criminal P. C. (1898), S. 476* (Jan) 6

—*Ss. 198 and 238*—Scope—Complaint under *S. 500*, Penal Code filed by person other than the aggrieved—Leave of Court under proviso to *S. 198* not taken—Complaint not maintainable (Aug) 204

—*Ss. 200, 202, 203, 156, 169, 173, 190 (1) (b), 4, 537*—Final report by police—Protest petition with request to call upon police to submit charge-sheet and to take action against opposite party—Dismissal of petition without examining petitioner on oath and without proceeding in accordance with provisions of Chap. 16, held contrary to law—Though Magistrate had no power to call for a charge-sheet it does not mean that petitioner should be disentitled to get relief provided by law—Protest petition was to be treated as petition of complaint (July) 149

—*S. 202*—Police investigation not ordered—Magistrate cannot look into statements of witnesses recorded by police or the result of enquiry embodied in final report—*See Criminal P. C. (1898), S. 200* (July) 149

—*S. 203*—Material on which Magistrate can act, explained—*See Criminal P. C. (1898), S. 200* (July) 149

—*S. 233*—Absence of mention of *S. 34*, Penal Code in the charge—Effect—*See Penal Code (1860), S. 34* (May) 105D

—*S. 235*—Recording of one set of evidence with respect to trial of three separate cases and another set of evidence in trial of two other separate cases—Each case relat-

Criminal P. C. (contd.)

ing to a distinct offence unconnected with other — Procedure adopted by Magistrate is not warranted by Code (Obiter) (Sep) 228C

—S. 237 — Concurrent finding of facts Interference in revision See Criminal P. C. (1898), S. 439. (Mar) 36

—S. 238 — Concurrent findings of facts Interference in revision — See Criminal P. C. (1898), S. 439 (Mar) 36

—S. 238 — Provisions of S. 198 are mandatory Apparent from S. 238 — See Criminal P. C. (1898), S. 198 (Aug) 204

—S. 256 — Statements of prosecution witnesses previously recorded Must be made available to accused for his defence — Statements not in the prosecution but with third party — Accused can summon such third party — See Evidence Act (1872), S. 145 (July) 176B

—S. 288 — Depositions before committing Court brought on record of Sessions Court are substantive evidence — Such statements conflicting with those made before Sessions Court — Duty of Court, pointed out (Dec) 289A

—S. 288 — Statements before committing Court — Allegation that they were made under police pressure — Onus is on the accused to prove it (Dec) 289C

—S. 337 (2) and (2 A) — Approver — Non-examination of, in Committal Court — Accused acquitted after trial in Sessions Court — Judgment of Sessions Court and committal order quashed — Fresh committal proceedings ordered — Delay in not examining the approver — No reason to quash the entire prosecution proceedings. (Fresh committal proceedings ordered) (Nov) 286

—Ss. 342, 537 — Examination of accused — Mode of — Question asked in form of long narration When results in prejudice to the accused (Aug) 190C

—S. 342 — Assertions and allegations made by accused in his statement under S. 342 — They cannot be considered as evidence and utilised as material having bearing on conduct of person so alleged though they may be useful for considering defence of accused — Evidence Act (1872), S. 3 (Sep) 228B

—S. 344 — Order of remand under section by Magistrate having no jurisdiction to try case is illegal Detention under such order is illegal Accused subsequently produced by police before Magistrate having jurisdiction to try case and remanded to jail custody under S. 344 — See Criminal P. C. (1898), S. 167A (Dec) 296A

—S. 367 — Lower Court's concurrent findings of conviction giving convincing reason for placing reliance on prosecution witnesses and accepting prosecution case — Held there

Criminal P. C. (contd.)

were no compelling reasons for differing from the concurrent findings — See Criminal P. C. (1898), S. 439. (Mar) 36

—S. 367 — Appreciation of evidence — Duty of Court — Commission of offence after pre-planning — Currents and cross-currents of motives and emotions — Atmosphere of party feud — Test of truth would be mute circumstances — (Evidence Act (1872), S. 3) (Apr) 73

—S. 367 — Appreciation of evidence — Duty of Court of Appeal — See Criminal P. C. (1898), S. 423 (Apr) 75A

—S. 367 — Conviction or sentence Operative portion of judgment — Duty of Courts (Apr) 75B

—S. 367 — In expressing opinions and remarks, judicial officers should be guided by considerations of justice, fair play and restraint — See Criminal P. C. (1898), S. 561-A (Sep) 228A

—S. 367 — Appreciation of evidence — On facts held charge of murder was proved See Penal Code (1860), S. 302 (Oct) 245C

—S. 383 — Sentence of imprisonment — Commencement of — Detention in Court custody by reason of sentence amounts to undergoing of imprisonment — Actual delivery into custody of jailor not essential for commencement (Oct) 268A

—Ss. 403 and 423 — Conviction on same charges barred in second trial once the accused is acquitted in first — If object of evidence in second trial is to corroborate charge in respect of offence which is subject matter of trial no question of disputing previous finding arises — Charges under S. 148, Penal Code and S. 27, Arms Act — Acquittal for offence under S. 148 — Conviction under S. 27, Arms Act cannot be maintained (Feb) 23B

—S. 423 — Conviction on same charges barred in second trial once the accused is acquitted in first — See Criminal P. C. (1898), S. 403 (Feb) 23B

—Ss. 423, 367 — Innocence of accused — Presumption as to — Appreciation of evidence — Duty of Court of appeal (Apr) 75A

—Ss. 139, 367, 237 and 238 — Prosecution under Ss. 148, 149, 323, 324 and 426, Penal Code — Conviction under Ss. 323 and 352, Penal Code Prosecution wanted to prove assault of serious nature — Lower courts on evidence of prosecution witnesses coming to finding that instead of committing grave offence accused have committed lesser offence — It cannot be said that substratum of prosecution is disbelieved and accused are convicted on reconstructed story made out by lower courts — Convincing reasons given by lower courts for placing reliance on

Criminal P. C. (contd.)

prosecution witnesses and in accepting prosecution case as proved—Held there were no compelling reasons to differ from concurrent finding of fact (Mar) 36

—S. 439—Penal Code (1860), S. 379: Conviction for cutting and carrying away crops raised by complainant—Lower Courts on consideration of evidence finding that the complainant was in possession of land as a bhag chasi and had raised crops—No interference in revision (Apr) 70B

—Ss. 476, 476-A, 476-B and 193 (3)—Application under S. 476-A rejected by Magistrate—Appeal against order lies under S. 476-B—Section 195 (3) indicates superior appellate court as court of session (Jan) 6

—S. 476-A—Application under, rejected by Magistrate—Appeal against order lies under S. 476-B—See Criminal P. C. (1898), S. 476 (Jan) 6

—S. 476-B—Order rejecting application under S. 476-A—Appeal lies against it under the section—See Criminal P. C. (1898), S. 476 (Jan) 6

—S. 488—Neglect or refusal—Husband always ready to maintain wife and son if they resided with him—Wife however, insisting husband to stay with her in her mother's house—No other allegations such as cruelty, ill-treatment made—Maintenance for wife and son awarded—Alternatively husband directed to stay with wife in her parent's house and to maintain them according to the desire of wife—Award of maintenance to wife and alternative direction illegal—Son however entitled to maintenance—(Hindu Law—Maintenance) (May) 112

—S. 491—Application under—Relevant date for considering legality of detention of applicant is not the date when application is filed but the date on which the court passes final order or at least the date on which State shows cause in answer to the rule issued—Accused cannot be released under S. 491 merely because of the antecedent illegality of detention when detention is legal at the relevant date (Dec) 296B

—S. 517—Scope—Merely provides summary method for maintaining status quo ante—Rival claims as to ownership and possession of idol—Idol in possession of accused since some time past not without any title or right—Accused acquitted in complaint case under S. 406, Penal Code, but directed to deliver physical possession of idol to complainant—Direction held wrong—Such rival claims could not be decided in criminal cases—Penal Code (1860), S. 406 (Mar) 56

Criminal P. C. (contd.)

—S. 537—Absence of mention of S. 34, Penal Code in charge—Effect—See Penal Code (1860), S. 34 (May) 105D

—S. 537—Final report by police—Protest petition with request to call upon police to submit charge sheet and to take action against opposite party—Dismissal petition without examining petitioner on oath and without proceeding in accordance with provisions of Ch. 16 held contrary to law—Failure to examine petitioner on oath is irregularity—See Criminal P. C. (1898), S. 200 (July) 149

—S. 537—Defect in charge—Plea raised in revision—No prejudice alleged or proved in trial Court or in lower Appellate Court—Plea cannot be entertained (Aug) 190B

—S. 537—Examination of accused—Long narrations in questions—Illiterate accused would get prejudiced—Accused Revenue clerk having full knowledge of facts—Raising no objection to form of question—No prejudice—See Criminal P. C. (1898), S. 342 (Aug) 190C

—Ss. 561A, 367—Scope—In expressing opinion and remark, judicial officers should be guided by considerations of justice, fair play and restraint—Absence on part of Magistrate to observe reserve, sobriety and judicial approach in deciding cases—Derogatory remarks against I. G. P. not justified—Remarks should be expunged (Sep) 228A

—S. 561A—Inherent power of High Court—Court cannot exercise after becoming functus officio by passing its final judgment (Oct) 268B

Deed—See Government Grants Act (1895), S. 3

Divorce Act (4 of 1869), S. 36—Maintenance pendente lite—Quantum—See Hindu Marriage Act (1955), S. 24 (Jan) 12

Easements Act (5 of 1882), Ss. 13, 14—Easement of necessity—Grant of—Condition for (Aug) 201A

—S. 13—Easement of necessity—Should not be granted in absence of pleading (Aug) 201B

—S. 14—Right of way—Single unit not divided into more by transfers—Grant of privilege illegal—See Easements Act (1882), S. 13 (Aug) 201A

EDUCATION

—Orissa Education Code, Art. 41—Code has no statutory force—Articles are mere administrative instructions—Dissolution of Managing Committee of School—Not valid—Can be ignored by Committee—Newly constituted Managing Committee cannot claim any rights on the basis of the order of dissolution (Feb) 30B

Education—Orissa Education Code (*contd.*)

—*Art. 41*—Private school — Inspector of Schools, held, could not reconstitute Managing Committee under *Art. 41*—Plea that he merely accorded recognition to the reconstitution brought about by villagers, held, not substantiated (Sep) 213

—*Art. 336* — Procedure—Managing Committee of school resolving to recommend termination of services of headmistress — Appeal of headmistress against that resolution rejected—No personal hearing given to her despite her prayer for such opportunity : Held that an opportunity should have been given to her to meet the charges against her—Procedure adopted by authorities not regular and was against principle of natural justice and that rejection of appeal was unsustainable (Dec) 293

Evidence Act (1 of 1872), S. 3 — Conviction based on circumstantial evidence—Validity — *See* Penal Code (1860), S. 148 (Feb) 23A

—*S. 3*—Appreciation of evidence — Concurrent findings of facts — Interference in revision—*See* Criminal P. C. (1898), S. 439 (Mar) 36

—*S. 3*—Appreciation of evidence—Duty of Court — *See* Criminal P. C. (1898), S. 367 (Apr) 73

—*S. 3* — Statements made by accused in examination under S. 342, Criminal P. C. — Utility in considering his defence—Not useful as evidence — *See* Criminal P. C. (1898), S. 342 (Sep) 228B

—*S. 5*—Hindu Law—Alienation by father — Recital in sale deed that property was the self-acquisition of vendor — Lower Court's finding that the property was joint family property and father alienated it for consideration and for legal necessity and antecedent debts — Conclusion that he transferred the same as karta of family held not contrary to law— It was open to Courts of facts to examine entire evidence on record and come to a conclusion whether it was joint family property despite recital to the contrary in sale deed (June) 134B

—*S. 5*—Interested and partisan witnesses — Appreciation of evidence — Communal riot—Witness belonging to one community — Duty of Court — (Penal Code (1860), S. 147 — Evidence) (July) 176A

—*Ss. 18 to 21*—Non-confessional statements made under S. 164, Criminal P. C. — Statements are evidence if relevant and admissible — *See* Criminal P. C. (1898), S. 164 (1) and (2) (Oct) 245D

—*S. 24* — Applicability — Essentials (Aug) 190D

Evidence Act (*contd.*)

—*S. 24*—Confession—Duty of Magistrate, recording it — *See* Criminal P. C. (1898), S. 164 (3) (Oct) 245E

—*S. 24*—Judicial confession—Admissible without examining Magistrate before whom it was made — *See* Criminal P. C. (1898), S. 162 (Dec) 289E

—*S. 27* — Murder case—Accused informing Police about their having concealed pieces of rope — Evidence disclosing that the dead body was tied with ropes — Discovery of ropes given — Statement admissible under S. 27 (Oct) 245B

—*S. 32 (3)* — Statement of person that he is separated from joint family — Probative value (Feb) 18B

—*S. 45* — Medical evidence—Injury report is an admissible piece of evidence in proof or disproof of the theory of accident (Dec) 289F

—*S. 56* — Notable event — Wrought in Eastern Orissa for 3 to 4 years is notable event — *See* Civil P. C. (1908), S. 148 (Oct) 266

—*Ss. 101 to 104* — Allegation of fraud to save limitation — Burden of proof—*See* Limitation Act (1963), S. 17 (Mar) 63C

—*Ss. 101-104* — Innocence of accused — Presumption as to — *See* Criminal P. C. (1898), S. 423 (Apr) 75A

—*Ss. 101-104*—Partition of property of A and B — Liability of tenant to pay rent — Tenant taking plea that he had paid it to A — Onus is on him to prove it—*See* Transfer of Property Act (1882), S. 109 (Nov) 273

—*Ss. 101-104*—Statement before Committing Court alleged to be made under police pressure—Onus is on accused to prove—*See* Criminal P. C. (1898), S. 288 (Dec) 289C

—*Ss. 101 to 104*—Insanity plea by accused — Onus to prove insanity is on accused — Any insanity recognised by Medical science is not legal insanity—*See* Penal Code (1860), S. 84 (May) 102

—*S. 114* — Innocence of accused — Presumption as to — *See* Criminal P. C. (1898), S. 423 (Apr) 75A

—*S. 114*—Consignment of mangoes reaching destination 2 days late than reasonable time—Delay of 2 days not being unreasonable, no presumption, that damage was due to delay of 2 days can be drawn — *See* Railways Act (1890), S. 74C (3) (May) 100A

—*S. 115*—Admission to educational institution—Basis of selection changed abruptly to the detriment of candidates — Principle of equitable estoppel — Applicability — *See* Constitution of India, Art. 226 (Apr) 80D

—*S. 118* — Child witness — Duty — Duty of Court — Omission to administer oath or to attach certificate as required by S. 5 of

Evidence Act (contd.)

Oaths Act, does not affect admissibility of his evidence by virtue of S. 13 of Oaths Act — See Oaths Act (1873), S. 5 (May) 105A

—S. 118—Competency of witness to give evidence — Child witness — Evidence of — Court should accept it with caution and should require substantial corroboration before acting upon it (May) 105B

—S. 133 — On facts, witnesses, held, no accomplices — (Penal Code (1860), S. 302) (Oct) 245A

—S. 145 — Inconsistency between complainant's evidence and complaint petition on a point — Complainant's attention not drawn under S. 145 to such inconsistency — Complainant's evidence on such point corroborated by prosecution and even defence witnesses — Concurrent finding of fact of both lower courts on such point in favour of complainant — In revision, defence cannot take advantage of such inconsistency (Mar) 59A

—Ss. 145 and 155—Previous statements of prosecution witnesses reduced into writing — Right of accused to ask prosecution to make them available for his defence — Statement not in possession of prosecution but of third party — Accused should summon such person (Criminal P. C. (1898), S. 256) (July) 176B

—S. 145 — Statement of witness under S. 164 Criminal P. C. Can be used For purposes of corroboration or contradiction of the witness — See Criminal P. C. (1898), S. 164 (Dec) 289B

—S. 155 — Statements of prosecution witnesses previously recorded — Use for impeachment, right of accused — See Evidence Act (1872), S. 145 (July) 176B

—S. 157 — Statement of witness under S. 164, Criminal P. C. can be used for purposes of corroboration or contradiction of witness—See Criminal P. C. (1898), S. 164 (Dec) 289B

General Clauses Act (10 of 1897), S. 3 (42) — Word "person" — Managing Committee of school is a "person" — Application under Art. 226 can be filed by the Managing Committee claiming fundamental right to property — See Constitution of India, Art. 226 (Feb) 30A

Government Grants Act (15 of 1895), S. 2 — Ss. 111 and 114, Transfer of Property Act (1932) do not apply to Government Grants— See Mines and Minerals (Regulation and Development) Act (1957), S. 5 (July) 152G

—S. 3 — Government Grants be construed according to tenor of the grant — See Mines and Minerals (Regulation and Development) Act (1957), S. 5 (July) 152G

Hindu Law — Inheritance — Oriya family belonging to Koraput not renouncing personal law when Koraput became part of State of Orissa in 1936 — Members of such family must be governed by law of inheritance as it prevailed in Madras before 1936 (Jan) 3A

—Joint family property — Alienation — Sale of joint family property by coparcener — Title (Feb) 18A

—Maintenance — Neglect or refusal — Husband always ready to maintain wife and son if they resided with him — Wife, however, insisting husband to stay with her in her father's house — No other allegations such as cruelty, ill-treatment made—Maintenance for wife and son awarded — Alternatively husband directed to stay with wife in her parent's house and to maintain them according to the desire of wife — Award of maintenance to wife and alternative direction illegal — Son however entitled to maintenance—See Criminal P. C. (1898), S. 488 (May) 112

—Mitakshara — Inheritance — Madras School — Deceased leaving behind only father's brother's daughter and no male heir — She is entitled to succeed as a bandhu (Jan) 3B

Hindu Marriage Act (25 of 1955), S. 24 — Maintenance pendente lite — Court expenses — Act does not lay down scale — Divorce Act (1869), S. 36 lays down limit of one fifth of husband's net income — Conduct of wife is a factor to be considered—Court expenses to be granted should be reasonable (Jan) 12

—S. 24 — Hindu Marriage and Divorce Rules (Orissa High Court), 1957, R. 13 (b) — Petition for interim maintenance and litigation expenses — Application not supported by affidavit — Omission to comply with requirements of Cl. (b) of R. 13 held did not affect initial jurisdiction of court to entertain such application — Rule is analogous to provisions of Civil P. C. for presentation and verification of plaint — (Civil P. C. (1908) O. 6, R. 15) (Sep) 236A

—S. 24—Application by wife for interim maintenance and litigation expenses—Lower Court coming to conclusion as to quantum of maintenance and expenses without any material on record — Order must be set aside — Sympathy cannot take place of proof (Sep) 236B

Hindu Marriage and Divorce Rules (Orissa High Court) (1956), R. 13 (b) — Omission to comply with R. 13 (b) does not affect initial jurisdiction of Court to entertain application for interim maintenance and litigation expenses — See Hindu Marriage Act (1955), S. 24 (Sep) 236A

Income-tax Act (11 of 1922), S. 10 (1) — Business — Computation of profits — Paddy procuring agent for Government — Breach of warrant for goods supplied and liability to pay damages by way of penalty is incidental to such business — Paddy bona fide supplied to Government not conforming to standard quality prescribed under agreement — Government deducting from bills of agent certain amount by way of penalty — Assessee agent entitled to deduction under S. 10 (1) amount of such penalty in computation of his profits (Aug) 187B

— **S. 66 (1)** — Reference by Appellate Tribunal — Jurisdiction of High Court is advisory — Findings on facts are to be treated as final and question of law referred has to be answered on that footing (Aug) 187A

Industrial Disputes Act (14 of 1947), Ss. 10, 15, and 25H, Sch. 2, Item 3 — Discharge of regular employee — Employer stating that discharge was made after verification of adverse police reports though appointment was not conditional on result of verification of antecedents — Report of police also not disclosed to the Tribunal — Conduct of employee during five years of his service was without any blemish and his work was never found unsatisfactory — Held Tribunal had come to correct conclusion in holding that termination of services of employee was illegal and had to be set aside and management having failed to put before it report of police it was not open to it to contend that its action was bona fide — Held further that whether discharged employee was to be reinstated or compensation would be adequate relief was matter for discretion of Tribunal and exercise of discretion would not be interfered with in appeal unless there were valid and cogent reasons for interference — There were no reasons in instant case to differ from order of reinstatement passed by Tribunal (Oct) 252B

— **S. 15** — Powers and jurisdiction of Tribunals — Tribunal cannot sit in appeal over findings recorded at domestic enquiry — Where departmental enquiry is not fair or not at all held, Tribunal would be entitled to deal with merits of dispute for itself — Requirements of proper enquiry (Sep) 209A

— **S. 15** — Powers of Tribunals — Dispute regarding reinstatement of workman with back wages — Workman found to be on contract-service which period was to terminate on 3-1-1961 — Tribunal passing its order on 3-6-1961 reinstating workman with back wages — Held, that position of workman was different from that of probationer and that order of Tribunal in so far as it ordered reinstatement and payment of back wages

Industrial Disputes Act (contd.)

for period subsequent to 5-1-1964, was liable to be quashed (Sep) 209E

— **S. 15** — Worker discharged on adverse police report — Management not putting police report before Tribunal Tribunal holding discharge invalid was correct — See Industrial Disputes Act (1947), S. 10 (Oct) 252B

— **S. 25H** — Worker wrongly discharged — Whether orders for reinstatement or orders for adequate compensation should be passed in discretion of Tribunal — No interference by High Court — See Industrial Disputes Act (1947), S. 10 (Oct) 252B

— **Sch. 2, Item 3** — Discharge wrongful — Whether reinstatement or adequate compensation should be given is discretionary with Tribunal — See Industrial Disputes Act (1947), S. 10 (Oct) 252B

Industrial Employment (Standing Orders) Act (20 of 1946), S. 12A (as amended by Act 39 of 1963) — Section is not intended to be retrospective in its operation (Oct) 252A

Land Acquisition Act (1 of 1894), S. 3 (b) — "Person interested" — Meaning of — See Land Acquisition Act (1894), S. 18 (Aug) 198B

— **Ss. 18, 3 (b)** Application under S. 18 — "Person interested" meaning of — (Words and Phrases — "Person interested") (Aug) 198B

— **S. 18, (2) (b)** — Petitioner's application claiming compensation filed on 30-4-1963 rejected on 16-1-1967 — Award in favour of Collector passed on 11-6-66 No notice under S. 12 (2) given to petitioner Application by petitioner for making reference under S. 18 filed on 6-5-1967 held not barred by limitation — Time would run from the date when he had knowledge either actually or constructively — Knowledge of award did not mean a mere knowledge of fact that award had been made, it must relate to essential contents of award — Petitioner would be ascribed knowledge on 16-1-67 when his application was rejected and it was within six months, as required by sub-s. (2) (b) of S. 18, from the date of filing application on 6-5-67 (Aug) 198A

Limitation Act (9 of 1908), S. 18 Change in law — Effect — See Limitation Act (1963), S. 17 (Mar) 63B

— **Art. 96** — Countervailing duty levied through mistake — Refund application within 3 years from knowledge — Application within time — On refusal of relief writ maintainable — See Constitution of India, Art. 226 (Aug) 180

— **Arts. 142-144** — Adverse possession — Orissa Tenancy Act (2 of 1913), Ss. 23, 24, 55 (c) — Kujang estate — Suit for declara-

Limitation Act (1908) (contd.)

tion that plaintiff has acquired title of occupancy tenant by prescription — Plaintiff found to be in possession from 1940 onwards till date of suit in 1956 — Held that the plaintiff being in possession for more than the prescriptive period of 12 years acquired title of occupancy tenant — Application by tenant to recognise him as tenant by acceptance of rent did not militate against case of adverse possession of limited interest of tenancy — Distinction between adverse possession against proprietary interest and against tenant's rights, pointed out (Aug) 184A

— *Arts. 142-144 — Orissa Tenancy Act (2 of 1913), Ss. 23, 24, 55 — Kujang estate — Disputed land recorded as 'Rasta' — Estate vesting in State on 27.11.52 — Suit for declaration that plaintiff has acquired title of occupancy tenant by prescription — Failure to prove acquisition of title by adverse possession for more than 12 years prior to vesting — Suit must be rejected (Aug) 184B*

— *Art. 182, cl. (5) — 'Step in aid of execution' — Transferee Court wrongly dismissing execution petition as being not maintainable — Order amounts to step in aid of execution — (Civil P. C. (1908), Ss. 41 and 48) (July) 147B*

Limitation Act (36 of 1963), S. 17 — Change in law — Limitation Act (1908), S. 18

(Mar) 63B
— *S. 17 — Fraud — Pleading and proof — Nature of proof required to prove fraud — Shifting of onus — Application under O. 21, R. 90, Civil P. C. for setting aside sale prima facie barred — Applicant invoking aid of S. 17 must prove fraud beyond all reasonable doubt — Opposite party has then to establish that applicant had full knowledge of all facts resulting in sale beyond period of limitation (Mar) 63C*

— *S. 17 — Countervailing duty levied through mistake — Refund application within 3 years from knowledge — Application within time — On refusal of relief writ maintainable — See Constitution of India, Art. 226 (Aug) 180*

— *Arts. 64, 65 — Decree for declaration of title and recovery of possession — No steps taken to get possession — Adverse possession prior to suit is not interrupted. AIR 1932 Sind 35 and AIR 1958 Cal 437, Dissented from (Mar) 54*

— *Art. 65 — Adverse possession prior to suit — Whether interrupted — See Limitation Act (1963), Art. 64 (Mar) 54*

— *Art. 123 — Civil P. C. (1908), O. 9, R. 13, Proviso — Title suit decreed ex parte against 5 out of 12 defendants on 21.12.1961 — Application by 5 defendants under O. 9, R. 13*

Limitation Act (1963) (contd.)

filed on 17.8.1965 — Case of defendants one and indivisible — Three of defendants could only be fixed with knowledge of decree beyond 30 days — Application held not barred by Art. 123 (Aug) 196

Mineral Concession Rules (1960), R. 24 (3) — Application for mining lease to State Government not disposed of for over nine months — Deemed refusal — Order revisable by Central Government — See Constitution of India, Art. 226 (July) 163A

— *R. 54 — Order in revision passed by Central Government under Rr. 54 and 55 — State Government bound to carry it out — See Mines and Minerals (Regulation and Development) Act (1957), S. 28 (July) 165*

— *R. 55 — Central Government can revise orders of State Government of "deemed refusal" to grant lease — Order, quasi-judicial in nature — See Constitution of India, Art. 226 (July) 163A*

— *R. 55 — Order in revision passed by Central Government under Rr. 54 and 55 — State Government bound to carry it out — See Mines and Minerals (Regulation and Development) Act (1957), S. 28 (July) 165*

Mines and Minerals (Regulation and Development) Act (67 of 1957), S. 5 — Court should not import implied term in mining lease — See Constitution of India, Art. 299 (1)

(July) 152E
— *S. 5 — Government Grants Act (1895), Ss. 2, 3 — Transfer of Property Act (1882), Ss. 111 (g), 114 — Government grants — Construction of — Mineral leases — Being Government grants Ss. 111 (g) and 114, T. P. Act do not apply to it — (Deed Construction) (July) 152C*

— *S. 28 — Mineral Concession Rules (1960), Rr. 54, 55 — Order passed by Central Government in revision — State Government is bound to carry out direction of Central Government — Mining lease to be executed will be in sufficient compliance with Art. 299 of Constitution — (Constitution of India, Arts. 256, 257, 299, 226 and 227) (July) 165*

Minimum Wages Act (11 of 1948), S. 2 (b), 2 (g) and Sch. Part 1 Item 8 — Appropriate Government — Scheduled employment — Employment in stone-breaking or stone-crushing — Appropriate Government in matters of employment 'in such works in relation to mine' is Central Government whereas in matters of employment in such business 'otherwise than in relation to mine' is State Government (May) 110A

— *S. 2 (b) — 'Mine' for purposes of Act includes 'quarry' though there is some distinction between the two — (Words and Phrases — 'Mine') (May) 110B*

Minimum Wages Act (contd.)

—*Ss. 3 and 5 (2)* — Orissa State Government Notification under dated 27-3-1963 fixing minimum rates of wages payable to employees in stone-breaking and stone-crushing operations in quarries in Orissa—Validity—Notification is *intra vires* (Constitution of India, Art. 258 — Delegation by President of function of Central Government) (May) 110C

—*S. 5 (2)* — Fixing of minimum rates of wages by Orissa Government in stone-breaking and stone-crushing operations in quarries in Orissa—Validity — *See* Minimum Wages Act (1948), S. 3 (May) 110C

—*Sch. Part I, Item 8*—Employment in stone-breaking or stone-crushing — Appropriate Government in matters of employment “in relation to mines” is the Central Government — *See* Minimum Wages Act (1948), S. 2 (b) (May) 110A

Oaths Act (10 of 1873), Ss. 5 and 13 — Object of Act — Child witness — Duty of Court to record its opinion—Omission to administer oath or to attach certificate as required by proviso to S. 5—Does not affect admissibility of his evidence by virtue of S. 13—(Evidence Act (1872), S. 118) (May) 105A

—*S. 13*—Child witness — Omission to administer oath or to attach certificate as required by proviso to S. 5— Does not affect admissibility of his evidence—*See* Oaths Act (1873), S. 5 (May) 105A

Orissa Education Code

See under Education.

Orissa Estates Abolition Act (1 of 1952)

See under Tenancy Laws.

Orissa Estates Abolition Rules (1952)

See under Tenancy Laws.

Orissa Excise Rules, 1965, R. 103 (1)— Illegal levy of excise duty—Refund can be ordered subject to limitation — *See* Constitution of India, Art. 226 (Aug) 182

Orissa Ministerial Services Rules, 1963

See under Civil Services.

Orissa Sales Tax Act (14 of 1947)

See under Sales Tax.

Orissa Services Code

See under Civil Services.

Orissa Superior Judicial Services Rules (1963)

See under Civil Services.

Orissa Tenancy Act (2 of 1913)

See under Tenancy Laws.

Partition Act (4 of 1893), S. 4 — Partition between two brothers *A* and *B* — Dwelling house not partitioned by metes and bounds — Death of *A*—Sale of undivided half share by widow of *A*—Suit for partition by transferee of share—Wife, sons and daughter of *B* cannot claim any right under S. 4—Though

Partition Act (contd.)

they were members of undivided family of defendant, qua the dwelling house they were not co-sharers of *A* or his widow as *A* died in a separated status—Further, they having no locus standi to exercise right of pre-emption under S. 4, time to repurchase cannot be extended at their instance when *B* to whom opportunity was given to repurchase did not ask for any extension—They are not necessary parties to proceedings under S. 4 (Dec) 294A

Partnership Act (9 of 1932), S. 69 (3) (a)— Dissolution of unregistered partnership—Accounts taken and defendant agreeing to pay certain sum to plaintiff — Claim for the recovery of the agreed amount comes within Cl. (a) of S. 69 (3) and is not hit by S. 69 (Aug) 194

Penal Code (45 of 1860), S. 34—Scope — Section does not create a specific offence—It merely enunciates principle of constructive liability for acts committed by two or more persons in furtherance of common intention (May) 105C

—*S. 34*—Charge — Absence of mention of S. 34 — Effect — (Criminal P. C. (1898), Ss. 233 and 537) (May) 105D

—*Ss. 34, 141, 142 and 149*—Being a member of unlawful assembly—Proof of overt act — Not essential in every case—Proof of sharing common object of assembly is necessary—Common object and common intention — Distinction (July) 176C

—*S. 84* — Insanity—Legal insanity—Any insanity recognized in medical science is not legal insanity—Destruction of cognitive faculty of mind to such an extent as to render the accused incapable of knowing the nature of the act or that what he was doing was contrary to law is necessary—Onus lies on accused to prove insanity — Tests laid down — Evidence Act (1872), Ss. 101 to 104 (May) 102

—*S. 84*—Plea of insanity — Tests to be applied—Accused committing murder near temple of Kali Mata in broad day light in presence of father of deceased—Antecedent and subsequent conduct of accused showing that he was quite sane even at time of commission of murder — His attempt to escape from custody showing that he had guilty consciousness—While running amuck he was shouting “victory to Kali” and “Dustaku Marenga, Santhaku palenga” and wanted to assault anybody who came on his way Held plea of insanity was not established — His shouting in aforesaid manner was consistent with show that he killed to propitiate Kalimata and indiscriminate attacks were in order to escape

Penal Code (contd.)

arrest from members of public, both showed his guilty consciousness (Sep) 222
 —S. 96—Right of private defence Right to remove trespasser—See Penal Code (1860), S. 427 (Oct) 250
 —Ss. 97, 300—Murder case—Free fight between accused and deceased—Accused had no right of private defence (June) 138A
 —S. 99—Right of private defence of body—Exceeding right given under section—See Penal Code (1860), S. 100 (Nov) 287A
 —Ss. 100, 300—Right of private defence of body under—Murder case—Deceased was merely holding a stick and was picking up Kati aimed at him by son of accused—At that stage accused giving fatal blow to deceased—There was no reasonable apprehension in mind of accused that either death or grievous hurt would be caused to him if he did not exercise his right of private defence—Plea under S. 100 held not sustainable (June) 138B
 —Ss. 100, 99—Reasonable apprehension of death or grievous hurt—Apprehension cannot be determined with detached objectivity prevalent in Court room—Accused in exercise of his right of private defence of body, striking deceased on head with axe—Deceased falling down with bleeding injury—Accused subsequently giving 4 to 5 blows on neck of deceased resulting in his death on spot—Held, that though accused had right of private defence of body, exceeded the right when he gave blows when the deceased had fallen down defendants (Nov) 287A
 —S. 141—Unlawful assembly—Member of—Overt Act not essential in each case—Common object essential—Common object and common intention, difference between—See Penal Code (1860), S. 34 (July) 176C
 —S. 142—Unlawful assembly—Member of—Overt act not essential in each case—Common object essential—Common object and common intention, difference between—See Penal Code (1860), S. 34 (July) 176C
 —S. 147—Evidence—Communal riots—Witnesses belonging to one community—Evidences should not be mechanically thrown out—See Evidence Act (1872), S. 5 (July) 176A
 —S. 148—Conviction based on circumstantial evidence—Validity—Chain of circumstances must be complete—Falsity of defence plea would not establish prosecution case (Feb) 23A
 —S. 148—Charges under S. 148 I. P. C. and S. 27, Arms Act—Acquittal of offence under S. 148—Conviction under S. 27, Arms Act cannot be maintained—See Criminal P. C. (1898), S. 403 (Feb) 23B

Penal Code (contd.)

—S. 148—Concurrent findings of conviction—Interference in revision—See Criminal P. C. (1898), S. 439 (Mar) 36
 —S. 149—Conviction under S. 352—Concurrent findings by lower Courts—Interference in revision—See Criminal P. C. (1898), S. 439 (Mar) 36
 —S. 149—Unlawful assembly—Member of—Overt Act not essential in each case—Common object essential—Common object and common intention, difference between—See Penal Code (1860), S. 34 (July) 173C
 —S. 279—Rash or negligent act—Meaning—See Penal Code (1860), S. 304A (Mar) 49
 —S. 300—Clauses secondly and thirdly—Applicability—Intention to cause bodily injury sufficient in the ordinary course of nature to cause death—Existence of such injury caused by act of accused proved—Intention to cause it may be presumed unless there is evidence to contrary—On facts accused held were guilty under S. 304/34 I. P. C. as case was covered by clause thirdly and not secondly of S. 300 (May) 105E
 —S. 300—Murder case—Right of private defence—See Penal Code (1860), S. 97 (June) 138A
 —S. 300—Right of private defence of body under—Sustainability of plea—See Penal Code (1860), S. 100 (June) 138B
 —S. 300, Fourth exception—Held on facts that all elements of Exception 4 were fulfilled—See Penal Code (1860), S. 304 (June) 138C
 —S. 300, Exception 1 and S. 304—Accused causing death of deceased—Facts found sufficient to give grave and sudden provocation to accused to the extent of his being deprived of power of self control—Held, Exception 1 to S. 300 applied and accused came within mischief of S. 304 (Nov) 287B
 —S. 302—Witness invited by accused—Shown dead body which accused removed—No reason why witness should speak against accused—Witness is not an accomplice—See Evidence Act (1872), S. 133 (Oct) 245A
 —S. 302—On facts held, accused were guilty—(Criminal P. C. (1898), S. 367 (Oct) 245C
 —S. 302—Sentence—Accused an aborigin—Aborigines are more or less of animal instinct—Accused having volatile temperament—Accused using gun and killing deceased on his being chastised for doing no work in the fields—Held, that the ends of justice would be met if the extreme penalty of death was not imposed but imprisonment for life only was imposed (Dec) 289D
 —Ss. 304, 300 fourth exception—Accused giving fatal blow without premeditation in

Penal Code (contd.)

a sudden fight in heat of passion under sudden quarrel—No evidence that accused took any undue advantage or acted in a cruel or unusual manner—He merely gave a single stroke on head of deceased which proved fatal—All elements of Exception 4 to S. 300, held fulfilled—Weapon used being sharp cutting heavy weapon on vital part of body, accused was liable for conviction under first part of S. 304 (June) 138C

—S. 304—Case falling within Exception 1 to S. 300—S. 304 applies—See Penal Code (1860), S. 300 Exception 1 (Nov) 287B

—Ss. 304A, 279, 338—Scope - Distinction—Rash or negligent act—Meaning (Mar) 49

—S. 323—Conviction under—Concurrent findings by Lower Courts—Interference in revision—See Criminal P. C. (1898), S. 439 (Mar) 36

—S. 324—Concurrent findings under Ss. 323 and 352 by lower Courts—Interference in revision—See Criminal P. C. (1898), S. 439 (Mar) 36

—S. 352—Concurrent findings about conviction by lower courts—Interference in revision—See Criminal P. C. (1898), S. 439 (Mar) 36

—S. 379—Sentence—Case of removal of crop from complainant's land—Co-accused, though associates of main accused, not found interested in land or in crop—Extent of deliberations with which they associated with crime not known—Fine of Rs. 100 each and in default to one month's rigorous imprisonment excessive for co-accused—Fine reduced to Rs. 50 each (Mar) 59B

—S. 379—Conviction under for cutting and carrying away crops raised by complainant—Defence of bona fide claim of right to land—Mere putting up such a claim not sufficient—Several attempts made either by accused or their predecessor in title to deny that complainant is a bhag tenant of disputed land and to dislodge him therefrom, had failed—Crops found to be raised by complainant—No circumstance shown that accused might have entertained honest belief of still having a right to be in khas possession of disputed land—Held that the act in question was another attempt by accused to forcibly dislodge complainant from his possession of disputed land and cutting of crops was not in bona fide exercise of right to land (Apr) 70A

—S. 379—Cutting and carrying away of crops forcibly—Bona fide exercise of right to land—See Criminal P. C. (1898), S. 439 (Apr) 70B

—S. 405—Entrustment—Receiving money under delegated authority or implied autho-

Penal Code (contd.)

risation—Amounts to entrustment

(Aug) 190A

—S. 406—Rival claims as to ownership and possession of idol—Accused acquitted in complaint under S. 406 but directed to deliver physical possession of idol to complainant—Direction held wrong—Such rival claims cannot be decided in criminal cases—See Criminal P. C. (1898), S. 517 (Mar) 56

—S. 409—Sentence—Accused a Government servant tried for misappropriation under S. 409, Penal Code—Conviction and sentence of nine months R. I. and fine of Rs. 500—Revision—Accused paying back the entire amount—Trial lasting for more than four years and accused undergoing imprisonment for thirty days—Sentence reduced to period already undergone—Sentence of fine maintained (Aug) 190E

—S. 425—Mischief—Not only confined to wrongful loss but also covers damage caused by wrongful means. AIR 1948 Mad 473, Dissented from (Aug) 200

—S. 426—Concurrent findings of conviction under Ss. 323 and 352—Interference in revision—See Criminal P. C. (1898), S. 429 (Mar) 36

—Ss. 427 and 96—Mischief—Accused held not guilty of the offence—Accused had a right to remove the recent trespasser from his house (Oct) 250

Post War Conditions of Service (Eastern States Joint Armed Police) Rules (1946), R. 2

—Recognition of Government servants' right to pension under Press Commission—See Constitution of India, Art. 226 (Nov) 283

—R. 8—Recognition of Government servants' right to pension under Press Commission—See Constitution of India, Art. 226 (Nov) 283

Prevention of Food Adulteration Act (37 of 1954), S. 16—"Sale" includes sale for analysis to public or to Food Inspector—See Prevention of Food Adulteration Act (1954), S. 2 (xiii) (May) 155A

Prisoners Act (3 of 1900), S. 2(b)—Sentence by court—When commences—Delivery of prisoner in jail custody is not starting point—See Criminal P. C. (1898), S. 383 (Oct) 268A

—S. 3—Sentence by court—When commences—Delivery of prisoner in jail custody is not starting point—See Criminal P. C. (1898), S. 383 (Oct) 268A

—S. 4—Sentence by court—When commences—Delivery of prisoner in jail custody is not starting point—See Criminal P. C. (1898), S. 383 (Oct) 268A

Prisons Act (9 of 1894), S. 3 (1), (2), (3)—Sentence by court—When commences—

Prisons Act (contd.)

Delivery of prisoner in jail custody is not starting point — *See* Criminal P. C. (1898), S. 383 (Oct) 263A

Public Employment (Requirement as to Residence) Act (44 of 1957), S. 2 — Benefit could not be claimed by a person who is not a member of scheduled tribe in relation to the State in which he is residing — S. 2 of Central Act 44 of 1957 cannot override provisions of the Constitution — Para 2 of Constitution (Scheduled Tribes) Order, 1950, supports the view — *See* Constitution of India, Art. 341 (1) (Sep) 220

Railways Act (9 of 1890), S. 74C (3) — Mango consignment, dispatched at owner's risk, reaching destination 2 days late than reasonable time — Mangoes found unfit for human consumption — Delay of two days not being unreasonable Railway not responsible for destruction — Presumption that damage was due to delay of two days cannot be drawn — (Evidence Act (1872), S. 114) (May) 100A

Railways General Rules No. 29 (1954) — In terms, Rule 29 has no application to booking of perishable goods (May) 100B

Registration Act (16 of 1908), S. 17 (1)(b) and (v) — Compromise — Registration — Petition of compromise — No creation of extinction of right by itself — Registration unnecessary (Jan) 5A

— Ss. 17 (1)(b), 18 (d) — Petition of compromise — Creation of rights in moveable property — Registration unnecessary (Jan) 5B

— S. 17 (1)(b) — Property valued over Rs. 100.00 P. — Relinquishment can only be by a registered document (Jan) 10B

— S. 18 (d) — Compromise — Registration — When necessary — *See* Registration Act (1908), S. 17 (1)(b) (Jan) 5B

Registration of Electors Rules (1960), R. 33 — District Election Officer working under Election Commissioner — Sale of electoral rolls to candidate — District Election Officer collects price for State — *See* Constitution of India, Art. 284 (Oct) 263

Representation of the People Act (43 of 1950), S. 28 — District Election Officer — Sale of electoral rolls, by — Sale price can be recovered by State — *See* Constitution of India, Art. 284 (Oct) 263

Sale of Goods Act (3 of 1930), S. 59 — Remedies of buyer for breach of warranty (Aug) 187C

SALES TAX

— Orissa Sales Tax Act (14 of 1947), S. 6 — Ginger is vegetable — Sales tax not leviable

Sales Tax—Orissa Sales Tax Act (contd.)

— 'Vegetable,' what is. ILR (1961) Cut 175, Held no good law (Dec) 299A

— S. 12 (8) — Notice for showing cause against escaped assessment — Validity — Notice without disclosing any transactions from which the turnover is assumed to have escaped assessment is one purporting to make a roving enquiry and is invalid — Issue of such notice by Sales Tax Officer is in excess of his jurisdiction and violates principles of natural justice (Jan) 1

Suits Valuation Act (7 of 1887)

See under Court-fees and Suits Valuations.

TENANCY LAWS

— Orissa Estates Abolition Act (1 of 1952), S. 2 (d) — Order passed by Collector as such and appellate order passed by Collector — Appeal — Difference between two orders — *See* Tenancy Laws — Orissa Estates Abolition Act (1 of 1952), S. 9 (1) (as substituted by Act 15 of 1956), Explanation (as inserted by Act 23 of 1957) (Oct) 241B

— S. 5 — Plaintiff claiming occupancy rights in land vested in the State — Court-fee has to be paid on market value of land — *See* Court-fees and Suits Valuations — Court-fees Act (1870), S. 7 (xi) (e) (June) 140A

— S. 9 (1) (as substituted by Act 15 of 1956), Explanation (as inserted by Act 23 of 1957) and Ss. 2 (d), 32A, 47 — Orissa Estates Abolition Rules (1952), R. 8 — Order passed by officer other than Collector under proviso to S. 9 — Appeal against, to Collector — No second appeal, from appellate order of Collector, lies to Board of Revenue under S. 9 (1) (Oct) 241B

— S. 32A — Second appeal — When lies — *See* Tenancy Laws — Orissa Estates Abolition Act (1 of 1952), S. 9 (1) (as substituted by Act 15 of 1956), Explanation (as inserted by Act 23 of 1957) (Oct) 241B

— S. 47 — Rule making powers under — No right of second appeal given — *See* Tenancy Laws — Orissa Estates Abolition Act (1 of 1952), S. 9 (1) (Oct) 241B

— Orissa Estates Abolition Rules (1952), R. 8 — Appeal — Procedure to be followed — *See* Tenancy Laws — Orissa Estates Abolition Act (1 of 1952), S. 9 (1) (Oct) 241B

— Orissa Tenancy Act (2 of 1913), S. 23 — Distinction between acquisition by adverse possession of proprietary interest and tenants rights — *See* Limitation Act (1908), Art. 142 (Aug) 184A

— S. 23 — Acquisition of occupancy right by adverse possession — Claim for — Posses-

Tenancy Laws—Orissa Tenancy Act (contd.)
 sion for more than twelve years not proved
 — Suit not maintainable — *See* Limitation Act (1908), Art. 142 (Aug) 184B
 — *S. 24* — Distinction between acquisition by adverse possession of proprietary interest and tenants rights — *See* Limitation Act (1908), Art. 142 (Aug) 184A
 — *S. 24* — Acquisition of occupancy right by adverse possession — Claim for—Possession for more than twelve years not proved — Suit not maintainable — *See* Limitation Act (1908), Art. 142 (Aug) 184B
 — *S. 55* — Acquisition of occupancy right by adverse possession — claim for—Possession for more than twelve years not proved — Suit not maintainable — *See* Limitation Act (1908), Art. 142 (Aug) 184B
 — *S. 55 (c)* — Acquisition of occupancy rights in private estates permissible — *See* Limitation Act (1908), Art. 142 (Aug) 184A
 — *Ss. 55 (c) and 251* — 'Gochar land' — Kujang estate — Suit for declaration of occupancy right by prescription — Word "Rajasarkar" in settlement entry refers to Kujang estate and not to Government — No pleading that disputed land belonged to Government before vesting in 1952 — Held as the land belonged to Kujang estate, there was no bar to accrual of occupancy right by prescription before 1952 — Further, in absence of any pleading with reference to *S. 251* any argument on basis of that section would be inadmissible — Civil P. C. (1908), O. 6, R. 2 (Aug) 184C
 — *Ss. 228 and 228-A* — Civil P. C. (1908), O. 21, Rr. 89 and 90 — Suit to set aside sale — Bar under Rules (Apr) 67C
 — *S. 228-A* — Suit to set aside sale — Bar under Rules — *See* Tenancy Law — Orissa Tenancy Act (2 of 1913), S. 228 (Apr) 67C
 — *S. 251* — Ingredients of *S. 251*, Orissa Tenancy Act (2 of 1913) neither pleaded nor proved — Section cannot be invoked — *See* Tenancy Laws — Orissa Tenancy Act (2 of 1913), S. 55 (c) (Aug) 184C

Transfer of Property Act (4 of 1882), S. 6 (a)
 — Suit for damages for taking forcible possession of land—Transfer of land together with claim for damages pending the suit—Transfer not barred by *S. 6 (a)* — *See* Civil P. C. (1908), O. 22, R. 10 (June) 142
 — *S. 52*—Applicability — If it is applicable to a case, it controls second part of

T. P. Act (contd.)
S. 100—*See* Transfer of Property Act (1882), S. 100 (May) 114B
 — *S. 52* — Suit for damages for taking forcible possession of land—Transfer of land together with claim for damages pending suit — Transfer not barred under *S. 6 (a)* — *See* Civil P. C. (1908), O. 22, R. 10 (June) 142
 — *S. 100*—Applicability — Charge created by decree after contest—Charge is by operation of law—*S. 100* applies (May) 114A
 — *Ss. 100 and 52* — *S. 52*, if applicable to a case, controls second part of *S. 100*—Maintenance decree creating charge on property — Auction purchaser purchasing such property for consideration and without notice of charge — Decree not satisfied — Auction hit by lis pendens—Such property purchased by auction-purchaser put to sale — Auction-purchaser objecting under *S. 47*, Civil P. C.—Objection cannot be upheld — (Civil P. C. (1908), S. 47) (May) 114B
 — *S. 109* — Disputed house belonging to A's father and B who were brothers — Partition in family of A and B — Suit house allotted to share of A — A was collecting rent through B — Tenant having no notice of such partition — Tenant is not liable to pay rent to A if he had already paid rent to B — But his liability to pay rent to A, the real owner, subsists without notice or attornment if he has not paid it to B — Tenant having taken plea of payment to B, the onus of payment lies on him (Nov) 273
 — *S. 111 (g)*—Provisions of section do not apply to grants under Government Grants Act (1895)—*See* Mines and Minerals (Regulation and Development) Act (1957), S. 5 (July) 152G
 — *S. 114* — Provisions of section do not apply to grants under Government Grants Act (1895)—*See* Mines and Minerals (Regulation and Development) Act (1957), S. 5 (July) 152G
Words and Phrases—Force majeure—Meaning of—*See* Contract Act (1872), S. 56 (July) 152F
 — "Mine"—*See* Minimum Wages Act (1948), S. 2 (b) (May) 110B
 — "Person interested"—Meaning of — *See* Land Acquisition Act (1894), S. 18 (Aug) 198B
 — "Vegetable"—Ginger is vegetable — *See* Sales Tax—Orissa Sales Tax Act (14 of 1945), S. 6 (Dec) 299A

ORISSA SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED 29 FROM ETC. IN A. I. R. 1969

Diss.=Dissented from in; Not F.=Not followed in; Over. = Overruled in;
Revers. = Reversed in.

Civil Procedure Code (5 of 1908)

- S. 11—AIR 1956 Orissa 68—Diss. A I R 1969 All 504C (Oct) (FB).
- O. 22, R. 4 (3) & (4) (Madras)—AIR 1964 Orissa 39—Diss. A I R 1969 Mad 309A (Aug).

CIVIL SERVICES

- Indian Police Service (Appointment by Promotion) Regulation (1955)
- Regn. 5 — ILR (1967) Cut 735—Revers. AIR 1969 S C 1249A (Dec).
- Indian Police Service (Regulation of Seniority) Rules (1954)
- R. 3 (3) (b)—ILR (1967) Cut 735—Revers. AIR 1969 S C 1249A, B, C (Dec).

Companies Act (1 of 1956)

- S. 17 (3) & (4) — AIR 1957 Orissa 232—Diss. AIR 1969 Cal 32 (Jan).
- S. 17 (3) & (4) — ('57) A. H. O. No. 1 of 1957 (Orissa) — Diss. AIR 1969 Cal 32 (Jan)
- S. 17 (3) & (4)—A I R 1961 Orissa 62 — Diss. AIR 1969 Cal 32 (Jan).

Constitution of India

- Art. 14:— ILR (1967) Cut 735 — Revers. AIR 1969 S C 1249C (Dec).

COURT-FEES AND SUITS VALUATIONS

- Court-Fees Act (7 of 1870)
- S. 5—AIR 1951 Orissa 265—Diss. A I R 1969 All 484B (Oct) (FB).

Criminal Procedure Code (5 of 1898)

- S. 173—AIR 1952 Orissa 350—Diss. AIR 1969 Cal 316A (Jun).

Criminal P. C. (contd.)

- S. 190 (1) (b)—A I R 1952 Orissa 350 — Diss. AIR 1969 Cal 316A (Jun).
- S. 198-B — AIR 1963 Orissa 158 — Diss. AIR 1969 Delhi 198B (July).
- S. 422—(1965) 31 Cut L T 37—Held not good law in view of AIR 1960 S C 756 as interpreted A I R 1969 Ker 250 (Sep).
- Industrial Disputes Act (14 of 1947)
- S. 25FFF—('67) Ind Disputes Case No. 1 of 1967, D/- 5-12-1967 (Spl. Ind. Tribunal—Orissa.) Revers. AIR 1969 S C 90A (Jan).

Limitation Act (9 of 1908)

- Art. 99—AIR 1957 Orissa 224—Diss. AIR 1969 All 409B (Aug).

Orissa Kendu Leaves (Control of Trade) Act (28 of 1951)

- S. 10—A I R 1968 Orissa 189 — Revers. AIR 1969 S C 1081A (Nov).

Partition Act (4 of 1893)

- S. 4—AIR 1959 Orissa 173—Diss. A I R 1969 Cal 88B (Feb).

Penal Code (45 of 1860)

- S. 224—AIR 1950 Orissa 62—Diss. A I R 1969 Mad 408 (Nov).

Prevention of Food Adulteration Act (37 of 1954)

- S. 20—AIR 1963 Orissa 158—Diss. AIR 1969 Delhi 198B (July).

SALES TAX

- Orissa Sales Tax Act (14 of 1947)
- S. 5—ILR (1961) Cuttack 175—Held no good law by reason of Supreme Courts Decisions — A I R 1969 Orissa 299A (Dec)

ORISSA CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN AIR 1969

Diss. = Dissented from in ; Not F. = Not followed in ; Over. = Overruled in;
Revers. = Reversed in.

- ('50) AIR 1950 Orissa 62=51 Cri L J 679, King Emperor v. Lacchu Kamara—Diss. AIR 1969 Mad 408 (Nov)

- ('51) AIR 1951 Orissa 265=I L R (1950) Cut 365, Haribansha Singh Deo v. Sudhan-shu Sekhar Singh — Diss. AIR 1969 All 484B (Oct) (FB).

- ('52) AIR 1952 Orissa 350=1952 Cri L J 1635, Prosecuting Inspector Keonjhar

- v. Minaketan Mahato—Diss. AIR 1969 Cal 316A (Jun).

- ('56) AIR 1956 Orissa 68 = I L R (1956) Cut 319, Sunni Debi v. Prana Krishna Panda—Diss. AIR 1969 All 504C (Oct) (FB).

- ('57) AIR 1957 Orissa 224=I L R (1957) Cut 474, Khetro Naha Ko v. Sukuru Panda —Diss. AIR 1969 All 409B (Aug)

- (57) AIR 1957 Orissa 232=I L R (1956) Cut 697, Orient Paper Mills v. State—Diss. AIR 1969 Cal 32 (Jan)
- (57) A. H. O. No. 1 of 1957 (Orissa)—Diss. AIR 1969 Cal 32 (Jan).
- (59) AIR 1959 Orissa 173 = 25 Cut L T 133. Bikal Swain v. Iswar Swain—Diss. AIR 1969 Cal 88B (Feb).
- (61) AIR 1961 Orissa 62, Orissa Chemicals and Distilleries (P.) Ltd. In-re — Diss. AIR 1969 Cal 32 (Jan).
- (61) ILR (1961) Cuttack 175, Dhadi Sahu v. Commr. of Sales Tax, Orissa—Held no good law by reason of Supreme Court's Decisions—AIR 1969 Orissa 299A (Dec)
- (63) AIR 1963 Orissa 158=1963 (2) Cri L J 305, K. G. Anjaneyalu v. Chairman Puri Municipality — Diss. AIR 1969 Delhi 198B (July)
- (64) AIR 1964 Orissa 39=ILR (1964) Cut 396, Laxmicharan v. Satyabadi — Diss. AIR 1969 Mad 309A (Aug).
- (65) 1965-31 Cut L T 37=(1965) 7 O J D 245. Siba v. Kailash Chandra Jena — Held not good law in view of A I R 1960 SC 756 as interpreted A I R 1969 Ker 250 (Sep)
- (67) ILR (1967) Cut 735, Bindo Kishore Mohapatra v. State or Orissa—Revers. A I R 1969 S C 1249 A, B. C (Dec)
- (67) Industrial Dispute Case No. 1 of 1967, D/- 5-12-1967 (Spl. Ind. Tribunal Orissa)—Revers. A I R 1969 S C 90A (Jan).
- (68) AIR 1968 Orissa 189, Rasbihari Panda v. State—Revers. A I R 1969 S C 1081A (Nov)

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years.

Owing to late receipt of other Journals the following *supplement* to comparative tables of A.I. R. = Other Journals is issued.

A. I. R. 1968 Orissa = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
44	(1969) 1 Lab L J 408	144	ILR (1968) Cut 554	196	ILR (1968) Cut 635	225	con. ILR (1968) Out 784
71	ILR (1968) Cut 891	160	1969 All Cri R 450	200	ILR (1968) Cut 820	227	ILR (1968) Cut 571
	1969 All Cri R 425	172	ILR (1968) Cut 759	208	ILR (1968) Cut 622	230	ILR (1968) Cut 927
79	ILR (1968) Cut 651	183	89 Com Cas 650	217	ILR (1968) Cut 718	234	ILR (1968) Cut 424
129	ILR (1969) Cut 125	187	ILR (1968) Cut 813	225	34 Cut L T 1389	236	ILR (1968) Cut 770
140	ILR (1969) Cut 18						

A. I. R. 1969 Orissa = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [CN 1]	34 Cut L T 1060	63 [CN 27]	34 Cut L T 1258 10 Orissa J D 183	149con1969 Cri L J 926 ILR (1968) Cut 793	236 [CN 83]	35 Cut L T 532	
3 [CN 2]	34 Cut L T 1021	67 [CN 28]	35 Cut L T 98 ILR (1968) Cut 935	152 [CN 53]	237 [CN 84]	35 Cut L T 448 11 Oris-a J D 57 1969 Serv L R 566 1969 Lab I C 1225	
5 [CN 3]	ILR (1968) Cut 368 34 Cut L T 479	70 [CN 29]	1969 Cri L J 499	163 [CN 54] ...	241 [CN 85]	35 Cut L T 696 11 Orissa J D 82	
6 [CN 4]	34 Cut L T 401 1969 Cri L J 229	73 [CN 30]	34 Cut L T 766 1969 Cri L J 502	165 [CN 55] ...	245 [CN 86]	1969 Cri L J 1255	
7 [CN 5]	ILR (1968) Cut 399 34 Cut L T 930	75 [CN 31]	34 Cut L T 1250 1969 Cri L J 504	167 [CN 56]	250 [CN 87]	1969 Cri L J 1260	
10 [CN 6]	34 Cut L T 971 ILR (1968) Cut 566	77 [CN 32]	35 Cut L T 48	169 [CN 57]	252 [CN 88]	1969 Lab I C 1230	
12 [CN 7]	34 Cut L T 937 ILR (1968) Cut 657	80 [CN 33]	ILR (1968) Cut 587	171 [CN 58]	257 [CN 89]	ILR (1968) Cut 270	
13 [CN 8]	34 Cut L T 1099 1969 Serv L R 838	89 [CN 34]	34 Cut L T 1201	176 [CN 59]	261 [CN 90]	35 Cut L T 474	
16 [CN 9]	34 Cut L T 1246	91 [CN 35]	39 Com Cas 974 ILR (1968) Cut 904	180 [CN 60] ...	262 [CN 91]	35 Cut L T 476	
18 [CN 10]	ILR (1969) Cut 146	100 [CN 36]	35 Cut L T 198	182 [CN 61] ...	263 [CN 92]	35 Cut L T 585	
21 [CN 11]	34 Cut L T 1175	102 [CN 37]	35 Cut L T 79 1969 Cri L J 623	183 [CN 62] ...	265 [CN 93]	35 Cut L T 461	
23 [CN 12]	ILR (1967) Cut 883 1969 Cri L J 301	105 [CN 38]	35 Cut L T 18 1969 Cri L J 626 ILR (1969) Cut 66	184 [CN 63]	266 [CN 94]	35 Cut L T 548	
28 [CN 13] ---		110 [CN 39]	34 Cut L T 1372 1969 Lab I C 567 (1969) 2 Lab L J 112	187 [CN 64] ---	267 [CN 95]	35 Cut L T 799	
30 [CN 14]	34 Cut L T 1162 ILR (1968) Cut 888	112 [CN 40]	34 Cut L T 1205 1969 Cri L J 761	190 [CN 65]	268 [CN 96]	35 Cut L T 411 1969 Cri L J 1414	
32 [CN 15]	34 Cut L T 1121	114 [CN 41]	34 Cut L T 1296 ILR (1968) Cut 788	194 [CN 66]	273 [CN 97]	35 Cut L T 860 1969 Ben C R 760	
34 [CN 16] ...		116 [CN 42]	35 Cut L T 150	195 [CN 67]	274 [CN 98]	35 Cut L T 593	
36 [CN 17]	1969 Cri L J 397	117 [CN 43]	ILR (1968) Cut 487 1969 Cri L J 763	196 [CN 68]	278 [CN 99]	35 Cut L T 687	
37 [CN 18]	34 Cut L T 1026 ILR (1968) Cut 341 1969 Lab I C 281 (1969) 2 Lab L J 308	134 [CN 44]	34 Cut L T 1305 ILR (1968) Cut 802	198 [CN 69]	280 [CN 100]	35 Cut L T 630	
45 [CN 19]	34 Cut L T 1392 1969 Lab I C 288 1969 Serv L R 141 ILR (1968) Cut 961	137 [CN 45]	35 Cut L T 206	200 [CN 70]	283 [CN 101]	1969 Lab I C 1359	
49 [CN 20]	34 Cut L T 1189 1969 Cri L J 428 ILR (1968) Cut 882	138 [CN 46]	10 Orissa J D 193 35 Cut L T 165 1969 Cri L J 922	201 [CN 71]	284 [CN 102]	34 Cut L T 1180 ILR (1968) Cut 713	
52 [CN 21] ...		140 [CN 47] ...		204 [CN 72]	286 [CN 103]	35 Cut L T 248 1969 Cri L J 1419	
54 [CN 22]	35 Cut L T 133	142 [CN 48]	35 Cut L T 86	206 [CN 73]	287 [CN 104]	1969 Cri L J 1515	
56 [CN 23]	34 Cut L T 1268 1969 Cri L J 430 ILR (1968) Cut 734	144 [CN 49]	35 Cut L T 287 ILR (1968) Cut 739	209 [CN 74]	289 [CN 105]	35 Cut L T 362 1969 Cri L J 1517	
58 [CN 24]	ILR (1968) Cut 432	146 [CN 50]	1969 Cri L J 925	220 [CN 77]	293 [CN 106]	34 Cut L T 1357 (1969) 1 Lab L J 350 1970 Lab I C 46	
59 [CN 25]	1969 Cri L J 432	147 [CN 51]	35 Cut L T 181 ILR (1968) Cut 899	222 [CN 78]	294 [CN 107]	35 Cut L T 562	
61 [CN 26]	ILR (1968) Cut 394 34 Cut L T 1052 1969 Lab I C 293 (1969) 2 Lab L J 325	149 [CN 52]	34 Cut L T 1237 10 Orissa J D 169	224 [CN 79]	295 [CN 108]	35 Cut L T 602	
				228 [CN 80]	296 [CN 109]	1969 Cri L J 1521 35 Cut L T 1044	
				233 [CN 81] ...	299 [CN 110]	35 Cut L T 817 24 S T C 240	
				234 [CN 82]	301 [CN 111]	35 Cut L T 678	

Other Journals = All India Reporter

ILR (1968) Cut
(April to Dec. 1968)

ILR Cut	AIR
270 1969 Ori	257
341 " "	37
388 " "	5
391 1968 " "	71
394 1969 " "	61
399 " "	7
424 1968 " "	234
432 1969 " "	58
437 " "	117
554 1968 " "	144
566 1969 " "	10
571 1968 " "	227
587 1969 " "	80
622 1968 " "	208
685 " "	196
651 " "	79
657 1969 " "	12
713 " "	284
718 1968 " "	217
734 1969 " "	56
738 " "	144
759 1968 " "	172
770 " "	236
784 " "	225
788 1969 " "	114
793 " "	149
802 " "	134
813 1968 " "	187
820 " "	200
882 1969 " "	49
888 " "	80
899 " "	147
904 " "	91
927 1968 " "	280

ILR (1968) Cut

ILR Cut	AIR
935 1969 Ori	67
956 " "	204
961 " "	45

ILR (1969) Cut
(Jan and Feb 1969)

ILR Cut	AIR
18 1968 Ori	140
66 1969 " "	105
83 " "	167
93 " "	152
125 1968 " "	129
139 1969 " "	206
146 " "	18
155 1970 " "	3
169 1969 " "	224

(1968) 34
Cut L T

Cut L T	AIR
766 1969 Ori	73
835 " "	201
1026 " "	37
1052 " "	61
1180 " "	284
1189 " "	49
1201 " "	89
1205 " "	112
1223 " "	204
1227 " "	171
1237 " "	149

(1968) 34 Cut L T

ILR Cut	AIR
1250 1969 Ori	75
1258 " "	63
1268 " "	56
1296 " "	114
1305 " "	134
1357 " "	293
1372 " "	110
1392 " "	45
1404 " "	169

(1969) 35
Cut L T

Cut L T	AIR
1 1969 S O	43
18 " Ori	105
35 " "	176
46 " "	77
55 " "	220
79 " "	102
86 " "	142
98 " "	67
116 " "	209
133 " "	54
150 " "	118
165 " "	138
181 " "	147
191 " "	184
196 " "	100
206 " "	137
218 1970 " "	3
223 1969 S O	90

(1969) 35 Cut L T

Cut L T	AIR
248 1969 Ori	288
261 " "	222
267 " "	215
287 " "	144
327 " "	167
358 " "	198
362 " "	289
377 " "	195
388 " "	196
411 " "	268
448 " "	237
461 " "	265
474 " "	261
476 " "	262
479 " S O	1081
498 " Ori	228
513 " "	190
532 " "	236
562 " "	294
577 " "	234
585 " "	263
592 " "	274
602 " "	295
630 " "	280
648 " "	266
678 " "	301
687 " "	278
696 " "	241
799 " "	287
817 " "	299
858 " "	194
860 " "	273
898 1970 " "	9

(1969) 35 Cut L T.

Cut L T	AIR
911 1969 S O	1249
931 1970 Ori	1
939 " "	22
957 1970 " "	47
977 " "	48
981 " "	36
1010 " "	298
1044 1969 " "	31
1058 1970 " "	37
1080 " "	15
1108 " "	28
1132 " "	12
1144 " "	19
1209 " "	253
1281 " S O	253

(1968) 10 Ori J D

OJD	AIR
143 1969 Ori	204
189 " "	149
183 " "	63
193 " "	138

(1969) 11 Ori J D

OJD	AIR
57 1969 Ori	237
82 " "	241
99 1970 Ori	9
104 " S O	398

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1969

[Vol. 56]

PATNA SECTION

WITH COMPARATIVE TABLES FOR

- (1) I. L. R. PATNA (2) BIHAR LAW JOURNAL REPORTS
(3) PATNA LAW JOURNAL REPORTS



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PATNA HIGH COURT

1969

CHIEF JUSTICE :

The Hon'ble Mr. Justice Satish Chandra Misra, M.A., B.L.

PUISNE JUDGES :

The Hon'ble Mr. Justice Ujjal Narain Sinha, Bar-at-law.

"	"	Nandlal Untwalia, M.A., B.L.
"	"	Tarkeshwar Nath, B.A., B.L. (up to 6-9-69).
"	"	Shyamnandan Prasad Singh, B.L.
"	"	Girija Nandan Prasad, M.A., B.L.
"	"	Akhaury Badrinath Singh, M.A., B.L.
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"	"	Kamla Kanta Dutta, M.A., B.L.
"	"	Mahendra Prasad Varma, M.A., B.L.
"	"	Krishna Ballabh Narain Singh, M.A., B.L.
"	"	Baidyanath Jha, M.A., B.L.
"	"	Shambhu Prasad Singh, B.A., B.L.
"	"	Balmiki Prasad Sinha, M.A., B.L.
"	"	Prafulla Kumar Banerji, M.A., B.L.
"	"	Bhubneshwar Dhari Singh, M.A. (Bar-at-law).

ADDITIONAL JUDGES :

The Hon'ble Mr. Justice Kanhaiyaji, M.A., B.L.

" " Sayed Wasiuddin, B.A., B.L.

ADVOCATE-GENERAL;

Shri Lalnarayan Sinha, M.A., B.L.

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NOMINAL TABLE

Abdul Ghaffar v. Sawal Ram	(Aug) 287	Fula Devi, Smt. v. Mangtu Maharaj	(Sep) 294 (FB)
Ali Hassan v. Kamla Prasad Sinha	(Oct) 323	Ganesh Narain Singh v. Jadunandan Singh	(Mar) 82
All India General Transport Corporation v. Shri Raghunath Sahay	(July) 246	Gauri Shankar Sharma v. State of Bihar	(June) 192
Asarfi Mandal v. Mt. Parvati Devi	(Jan) 24	Gaya Prasad v. State of Bihar	(Sep) 311
Ashu Lal Saraogi v. Haji Sk. Ebadat Husain	(Mar) 98	Girdhar Prasad v. Ambika Prasad Thakur	(June) 218
Awadh Narain v. Bindeshwari	(Mar) 79	Hari Narain Choudhary v. Ramnehi Keur	(Jan) 7
Bahadur Singh v. Fuleshwar Singh	(Apr) 114	Hazi Khosal v. Ram Sundar	(Apr) 128
Baikunth Narain v. Kesar Kali Kuer	(May) 160	Heavy Engineering Corporation Ltd. v. K. Singh & Co.	(July) 248
Basanta Chandra v. Collector of Patna	(Mar) 70	Jadunandan Mandal v. Hitlal Mandal	(May) 171
Basta Colla Colliery Co. (P) Ltd. v. State of Bihar	(Feb) 42	Janak Nandan Prasad v. Minister of Transport, Govt. of Bihar	(Oct) 345
Belsand Sugar Co. Ltd. v. Thakur Girja Nandan Singh	(Jan) 8	Jharkhand Mines & Industries Ltd. v. Nand Kishore Prasad	(July) 228
Bhagwati Devi v. Surendrajit Singh	(Aug) 257	Jwala Singh v. Laboo Ram	(Jan) 28
Bhagwati Devi Bubna v. Dhanraj Mills Private Ltd.	(June) 206	Kailash Chandra Mandal v. Devendranath Mandal	(Mar) 110
Bhagwati Prasad Bhagat v. Mt. Pahil Sundari	(June) 215	Kalipada Ash v. Tagar Bala Dasi	(Aug) 270
Bibi Mohitunnisa v. Muhammad Mohiuddin	(Oct) 334	Kedar Prasad Sinha v. State of Bihar	(Apr) 140
Bijali Bala v. Charu Bala	(Jan) 21	Kesho Sao v. State of Bihar	(Mar) 105
Bishwa Nath Prasad v. Yashoda Nandan Singh	(Mar) 97	Labh Chandra Reisurana v. State of Bihar	(June) 209
Bokaro and Ramgur Ltd. v. Kathara Coal Co. Ltd.	(July) 235	Luxmi Narayan Arjundas v. State Bank of India	(Dec) 385
Burman, M. L. v. Shyamsunder Sinha	(Nov) 366	Makundi Mandal v. Haridas	(Aug) 267
Calcutta Chemical Co. Ltd. v. D. K. Barman	(Nov) 371	Managing Officer, Evacuee Property Gaya v. Mt. Nasiban	(Aug) 272
Chairman, Jugsalai Notified Area Committee v. Mukhram Sharma	(May) 155	Muna Devi v. Ram Jhari Devi	(Sep) 314
Chandra Choor Deo v. Krishnawati	(July) 251	Natho, Mt. v. Sital Prasad Sahu	(Sep) 310
Chanru Sah v. Usharani Das Gupta	(Oct) 331	Newspapers and Publications (P) Ltd. v. H. K. Chaudhuri	(Oct) 349
Chintamani Saran Nath v. Tikait Pratap Chandra Nath	(Jan) 1 (FB)	Pano Kuer v. Baleshwar Pandey	(July) 233
In the matter of Chotanagpur Banking Association Ltd.	(June) 184	Patherdih Sudamdih Colliery Private Ltd. v. General Secretary, Bihar Koyla Mazdoor Sabha	(May) 147
Chotanagpur Banking Association Ltd.	(June) 188	Patna Electric Supply Co. Ltd. v. Patna Municipal Corporation	(Nov) 355
Commissioner of Income-tax Bihar and Orissa, Patna v. Uma Maheshwari	(Mar) 95	Patro, S. K. v. State of Bihar	(Dec) 394
Deonandan Singh v. Rambahal Singh	(June) 203	Prabhu Halwai v. Fulchand Khandelwal	(Jan) 16
Dund Bahadur Singh v. Lal Bahadur Singh	(June) 181	Prasad Gope v. Makhan Gope	(Sep) 307
Firdhar Lal Rastogi v. Kuer Avinash Chandra Singh	(Mar) 100	Rama Shankar Singh v. Principal Darbhanga Medical College	(Jan) 11
		Ramasrey Prasad Choudhary v. State of Bihar	(Nov) 369
		Ramayan Dubey v. Chitradeo Rai	(Mar) 85
		Ramdeyal Singh v. State of Bihar	(Apr) 131
		Rameshwar Sao v. Kamala Sai	(Oct) 329

Ramkawal Upadhaya v. Dudhanath Pandey	(Sep) 317	Sirinivas Fogla v. Satyanand Gupta	(Feb) 64
Ramroop Yadav v. State of Bihar	(May) 151	Siya Sharan Sinha v. State of Bihar	(Mar) 88
Ram Swarup Maru v. State of Bihar	(Oct) 340	State of Bihar v. Amulya Ratan Pathak	(May) 173
Ranbir Prasad v. Parvati Devi	(Oct) 336	_____ v. Bimla Kumari	(Feb) 48
Saful Alam v. Mohammad Aminul Alam	(May) 162	_____ v. Chukia Uraon	(Dec) 41
Sagar Singh Munda v. Mansukh Munda	(Aug) 266	_____ v. Dasrath Beldar	(July) 253
Sahdeo Tanti v. Bipti Pasin	(Dec) 415	_____ v. Daulat Kumari	(Jan) 25
Salbalani Devi v. Dipti Bikash Bhaduri	(Oct) 322	_____ v. Sheo Kumar Sinha	(Nov) 359
Sailajanand Pande v. Suresh Chandra Gupta	(June) 194	Subh Narain Singh v. M. M. Chakravarty	(July) 256
Saligram Acharya v. Raghavacharya	(Apr) 118	Subodh Gopal v. State of Bihar	(Mar) 72
Sanwormal Saraf v. Lalu Ram Agarwalla	(Oct) 337	Suraj Kumari, Smt. v. State of Bihar	(Jan) 30
Sarjug Singh v. Gulabo Kuer	(Feb) 33	Sureman Singh, In re	(June) 183
Satdeo Prasad v. Ram Narayan	(Mar) 102	Surideo Dubey v. Kripanarayan Tiwary	(Aug) 284
Satya Narain Dhandhadia v. Firm Narsing Das Bhudarmal	(Mar) 112	Syed Shaukat Imam v. State of Bihar	(Oct) 347
Sayedabad Tea Co. Ltd. v. State of Bihar	(May) 165	Tapeshwar Missir v. Santokh Singh	(Sep) 299 (FB)
Shankar Prasad v. Mt. Muneshwari	(Sep) 304	Tata Iron & Steel Co. Ltd. v. Sudhir Chandra Sarkar	(Feb) 53
Shanti Devi v. Ramesh Chandra Roukar	(Jan) 27	Union of India v. New India Assurance Co. Ltd.	(May) 151
Sharda Devi v. Karamchand Thappar and Co.	(Oct) 333	Union of India v. Messrs Ranjan Brothers	(Apr) 124
Sheo Sunder Kuer v. Dulhin Suraya Mukha Kuar	(Aug) 279	Yugeshwar Prasad Singh v. Jiyal Chaudhary	(Aug) 265
Siri Chand Prasad v. Lakshmi Singh	(Mar) 107		

SUBJECT INDEX

Administration of Evacuee Property Act (31 of 1950), S. 4 (1) — No valid notice could be issued prior to 8-10-54 or after 8-4-1955—*See* Administration of Evacuee Property Act (1950), S. 46 (Aug) 272B

—S. 7 — Administration of Evacuee Property (Amendment) Act (42 of 1954), Ss. 4 and 10 — “Commencement” of the Amendment Act — B migrated to Pakistan in year 1948 — Notice under S. 7 served on her on 4-4-1955 held valid notice within six months of ‘commencement’ of the Amendment Act (Aug) 272A

—S. 7 — Order under S. 7 when validly made cannot be challenged in Civil Court—*See* Administration of Evacuee Property Act (1950), S. 46 (Aug) 272B

—S. 28—Decision taken under S. 7 becomes final under S. 28 — *See* Administration of Evacuee Property Act (1950), S. 46 (Aug) 272B

Administration of Evacuee Property Act (contd.)

—Ss. 46, 28, 4 (1), 7 — Assistant Custodian declaring property in question to be evacuee property after notice under S. 7 to the person migrated — Order cannot be challenged in Civil Court — Jurisdiction of Civil Court is barred under S. 46 (Aug) 272B

Administration of Evacuee Property (Amendment) Act (42 of 1954), S. 4 — Notice was to be issued any time from 8-10-54 to 8-4-1955 — *See* Administration of Evacuee Property Act (1950), S. 7 (Aug) 272A

—S. 10 — S. 10 makes S. 7-A retrospective from 7-5-54 but not entire amendment Act—*See* Administration of Evacuee Property Act (1950), S. 7 (Aug) 272A

Arbitration Act (10 of 1940), S. 2 (a) — Reference for arbitration—Vagueness in agreement — *See* Contract Act (1872), S. 29 (Apr) 114C

Arbitration Act (contd.)

—S. 8 (2) — Agreement providing for two arbitrators — Court through misconception appoints one — Court can withdraw such order — *See* Civil P. C. (1908), S. 115

(July) 248

—S. 13 — Award—Mere omission to give reason does not vitiate award — *See* Arbitration Act (1940), S. 30

(Apr) 124A

—S. 13 — Proceeding before arbitrator — Notice to parties to file documents — Parties and their lawyers heard at length — Substantial compliance with principles of natural justice — *See* Arbitration Act (1940), S. 30

(Apr) 124B

—S. 14 — Original award—What is — *See* Arbitration Act (10 of 1940), S. 17

(June) 218B

—S. 14—Order directing filing of award—No bar to appeal against order refusing to set aside award—*See* Arbitration Act (1940), S. 39 (1) (iv)

(Sep) 307B

—S. 14 (1)—Award—Validity of — Object of notice under S. 14 (1) — *See* Arbitration Act (1940), S. 30

(Apr) 124D

—Ss. 14 (2), 17, 33 and 39 (1) (vi) — Composite order refusing to set aside award and decreeing in term of award is appealable — In a proper case, written statement to a proceeding under S. 14 (2) could be treated as an application under S. 17 or S. 33 — Written statement, however, ought to have been filed within time under Art. 158, Limitation Act

(Sep) 307A

—Ss. 17 and 14—Filing of award—Original award not filed—Contention that fair award was prepared from draft and signed by arbitrators — Draft not signed by all the arbitrators filed — It cannot be treated either as original award or as secondary evidence of award unless it is proved to have been compared with the original—No decree can be passed in terms of the draft

(June) 218B

—S. 17—Written statement to proceeding under S. 14 (2) — Can be treated as application under S. 17—*See* Arbitration Act (1940), S. 14 (2)

(Sep) 307A

—S. 20 — Application to file agreement in Court — One clause requiring appointment of two arbitrators — Court appointing one — Order bad, should be withdrawn — *See* Civil P. C. (1908), S. 115

(July) 248

—S. 20 — Application under — When not maintainable — Dispute arising out of void agreement — There cannot be reference

(Oct) 322A

—S. 20 — Application under — Parties to — Person interested in business but not included in agreement of partnership cannot be taken before arbitrator

(Oct) 322B

—S. 21 — Though under the section re-

Arbitration Act (contd.)

ference has to be made by all the parties interested, S. 24 enables the Court to continue suit so far as it relates to parties not joining reference only when they can be separated—*See* Civil Procedure Code (5 of 1908), O. 32, R. 7

(June) 218D

—S. 24—Dispute referred to arbitration — Some parties not joining reference—Effect—Power of Court to decide the suit in relation to parties not joining the reference — *See* Civil Procedure Code (5 of 1908), O. 32, R. 7

(June) 218D

—S. 30—Date of service of notice—Meaning of—*See* Limitation Act (1908), Art. 158

(Apr) 114A

—S. 30 — Registration Act (1908), S. 23—Award made — Award copied on stamped paper next day—Award is not invalid

(Apr) 114B

—Ss. 30, 13 — Award — Mere omission to give reasons does not vitiate award

(Apr) 124A

—Ss. 30, 13—Proceeding before arbitrator — Notice to parties to file documents—Parties and their lawyers heard at length — Substantial compliance with principles of natural justice

(Apr) 124B

—S. 30—Award—Failure of arbitrator to maintain order sheet — There being no provision in the Act requiring arbitrator to maintain order sheet in arbitration proceeding, award cannot be said to be vitiated

(Apr) 124C

—Ss. 30, 14 (1) — Award — Validity of — Object of notice under S. 14 (1)

(Apr) 124D

—Ss. 30, 39 (1) (vi) — Prayer to set aside award can be implied — Party challenging existence of award on the ground that the arbitrators have not done anything — It is allegation of misconduct on part of arbitrators — Court passing decree in terms of award must be taken to have refused to set aside award — Order is appealable under S. 39 (1) (vi)

(June) 218A

—S. 33—Written statement to proceeding, under S. 14 (2) — Can be treated as application under S. 33—*See* Arbitration Act (1940), S. 14 (2)

(Sep) 307A

—S. 33—Order directing filing of award—No bar to appeal against order refusing to set aside award—*See* Arbitration Act (1940), Ss. 39 (1) (iv)

(Sep) 307B

—S. 34—Waiver—Plea that the Court has no jurisdiction in the matter should be taken before the written statement is filed—Such a plea taken in the written statement will be of no effect

(Jan) 8B

—Ss. 39 (1) (iv), 39 (1) (vi), 14 and 33 — Order directing filing of award—Failure to prefer appeal against — No bar to appeal

Arbitration Act (contd.)

against order refusing to set aside award

(Sep) 307B

—S. 39 (1) (vi) — Prayer to set aside an award can be implied—Court passing decree in terms of the award must be taken to have refused to set aside an award — Order is appealable—See Arbitration Act (1940), S. 30

(June) 218A

—S. 39 (1) (vi)—Composite order (1) refusing to set aside award and (2) decreeing in terms of award is appealable—See Arbitration Act (1940), S. 14 (2)

(Sep) 307A

Banking Companies Act (10 of 1949), Ss. 45A and 45B — Banking Company under liquidation, one of the creditors of a debtor firm — Application for insolvency by two of the directors of the debtor firm filed in District Court—High Court alone has jurisdiction to decide the insolvency petition as it relates to the winding up of the Banking Company —The District Court has jurisdiction to proceed with the insolvency application — AIR 1958 Mad 403, Dissented from

(June) 184

—S. 45B — Banking company in liquidation a creditor of a firm — Application for insolvency by two Directors of the debtor firm filed in District Court — High Court alone has jurisdiction to decide insolvency petition as it relates to winding up of the Banking Company—See Banking Companies Act (1949), S. 45A

(June) 184

Bihar and Orissa Co-operative Societies Act (6 of 1935)

See under Co-operative Societies.

Bihar and Orissa Excise Act (2 of 1915), S. 77 —Report of excise officer under S. 77, Bihar and Orissa Excise Act — Is a police report and not a complaint for purposes of Ss. 190 and 247 — Absence of excise officer on date of hearing — Acquittal of accused under S. 247 is illegal—Powers of Excise Officer — See Criminal P. C. (1898), S. 190

(July) 253

Bihar and Orissa General Clauses Act (1 of 1917), S. 19 — Constitution of Majlis under Bihar Wakfs Act (8 of 1948) — Members of Majlis nominated by Government — No powers under S. 19 to change members—See Bihar Wakfs Act (8 of 1948), S. 14

(Oct) 347

Bihar and Orissa Municipal Act (7 of 1922)

See under Municipalities.

Bihar and West Bengal (Transfer of Territories) Act (40 of 1956), S. 17 — Acquired land transferred from Bihar State to W. B. State — Appeal against compensation claim pending in Patna High Court decided after the appointed date—Refusal to execute the decree by Court in Bihar State is valid —

Bihar and West Bengal (Transfer of Territories) Act (contd.)

See Bihar and West Bengal (Transfer of Territories) Act (40 of 1956), S. 47

(May) 165

—Ss. 47 and 17—Applicability of S. 47 — Land Acquisition case — Acquired lands transferred from Bihar State to State of West Bengal — Appeal against compensation claim pending in Patna High Court decided after the appointed date under Act—Execution of decree by the Court in Bihar State refused — Refusal valid

(May) 165

Bihar Buildings (Lease, Rent and Eviction) Control Act (3 of 1947)

See under Houses and Rents.

Bihar Finance Service Rules (1953)

See under Civil Services.

Bihar Hindu Religious Trusts Act (1 of 1951),

Ss. 8 (2) and 82 — Bihar Swetamber Jain Religious Trusts Rules, 1955 — Rule by State Government enabling all persons above 21 years of age in the State professing Swetamber faith to be included in electoral roll and those outside the State who pay Rs. 500/- to the Trust or to the Board, is discriminatory and violative of Arts. 14 and 26

(June) 209

—Ss. 48 and 72—Civil P. C. (1908), S. 141 and O. 40, R. 1—Proceedings under S. 48

They are of kind contemplated by S. 141 — Receiver can be appointed pending appointment of new shebait under O. 41, R. 1 — Art. 26 of Constitution is no bar

(Apr) 118A

—S. 48—Shebait following particular cult appointed under deed of endowment — Shebait committing various acts of dishonesty in the management of temple and its properties — Order of his removal from shebaitship passed by Additional District Judge—Order ultimately upheld by Supreme Court — Held, that Shebait could not have interest left as trustee of the temple and its properties

(Apr) 118B

—S. 72—Receiver can be appointed pending appointment of Shebait — See Bihar Hindu Religious Trusts Act (1950) (1 of 1951), S. 48

(Apr) 118A

—S. 82—State has no power to make rules so as to limit the rights of the Shree Sangha to elect five members of the Board under cl. (c) of S. 82—See Bihar Hindu Religious Trusts Act (1 of 1951), S. 8 (2)

(June) 209

Bihar Land Reforms Act (30 of 1950)

See under Tenancy Laws.

Bihar Money Lenders (Regulation of Transactions) Act (7 of 1939)

See under Debt Laws.

Bihar Rules of Execution Business (1965), Sch. 3, Item 20 — Proposal for institution of withdrawal of a prosecution against advice

Bihar Rules of Execution Business (contd.)

tendered by judicial department — It must be referred to Council of Ministers for discussion and final orders of Governor—*See* Constitution of India, Art. 166 (3)

(Apr) 140C

Bihar Sales Tax (Bihar) Rules, 1957

See under Sales Tax.

Bihar Shops and Establishments Act (8 of 1954)

See under Shops and Establishments.

Bihar Shops and Establishments Rules, 1955

See under Shops and Establishments.

Bihar Sugar Factories Control Act (7 of 1937), Ss. 18 (2) and 19 (2)—Bihar Sugar Factories Control Rules, 1938, R. 42A—Act and rules framed thereunder void after coming into force of Essential Commodities Act—Civil Court has jurisdiction to try suits touching a contract in the form prescribed under the Act. AIR 1959 Pat 398 & AIR 1959 Pat 403, Not foll.

(Jan) 8A

—S. 19 (2)—Act and Rules framed under are void after coming into force of Essential Commodities Act, 1955 — *See* Bihar Sugar Factories Control Act (7 of 1937), S. 18 (2)

(Jan) 8A

Bihar Sugar Factories Control Rules, 1938, R. 42A — Rules are void after coming into force of Essential Commodities Act, 1955 — *See* Bihar Sugar Factories Control Act (7 of 1937), S. 18 (2)

(Jan) 8A

Bihar Waqfs Act (8 of 1948), S. 8 (1) (a) — Government nominating members of Majlis — Members cannot be removed — *See* Bihar Waqfs Act (8 of 1948), S. 14

(Oct) 347

—Ss. 14 and 8 (1) (a) — Constitution of Majlis — Once Government nominates its members they cannot be removed—S. 19 of the Bihar General Clauses Act does not also give such power

(Oct) 347

Central Sales Tax Act (74 of 1956)

See under Sales Tax.

Chota Nagpur Encumbered Estates Act (6 of 1876)

See under Debt Laws.

Chota Nagpur Tenancy Act (6 of 1908)

See under Tenancy Laws.

Civil Procedure Code (5 of 1908), Pre.—Precedent — Right of employee under Retiring Gratuity Rules of employer company — Interpretation of rules involved — Cases decided under Industrial Disputes Act are not a safe guide

(Feb) 53C

—Pre. — Interpretation of Statutes — Mandatory and directory provisions — Provisos of S. 18, Land Acquisition Act (1894) are mandatory — *See* Land Acquisition Act (1894), S. 18

(Apr) 131

—Pre.—Interpretation of Statutes—Deem-

Civil P. C. (contd.)

ing provision made in statute — State of things have to be assumed though such things do not exist — *See* Bihar and West Bengal (Transfer of Territories) Act (40 of 1956), S. 47

(May) 165

—Pre.—Interpretation of Statutes—'Shall' and 'May'—Construction — Depends upon legislative intent—*See* Companies Act (1956), S. 446

(June) 206

—Pre. — English precedents — English precedents on Indian codified law, are not a help—*See* Evidence Act (1872), S. 63

(June) 218C

—Pre. — Interpretation of Statutes — Language plain and unambiguous—Grammatical and liberal sense should be given — *See* Criminal P. C. (1898), S. 480 (Oct) 323D

—S. 9—Civil Court has jurisdiction to try suits touching a contract in the form prescribed under the Bihar Sugar Factories Control Act, 1937 — *See* Bihar Sugar Factories Control Act (7 of 1937), S. 18 (2)

(Jan) 8A

—S. 11—Principle of *res judicata*—Applicability — Applies also between two stages of same litigation—Decision in earlier stage must be final

(Jan) 16A

—Ss. 11 and 47 and O. 21, Rr. 22 and 64 — Principles of constructive *res judicata*—Execution of mortgage decree—Property sought to be sold — Objections taken by judgment-debtor in 1958 rejected by executing Court — Appeal and second appeal therefrom also dismissed — Fresh objection in 1960—Plea of non-saleability of homestead land — Plea not taken in 1958 — Plea held barred by principles of constructive *res judicata* — Objection not taken on service of notice under O. 21, R. 22 cannot be subsequently raised

(Jan) 21

—S. 11 and O. 1, R. 10, O. 22, R. 10 and O. 21, R. 22—*Ex parte* decree—Fraud practised — *Ex parte* decree is vitiated and must be set aside

(July) 228A

—Ss. 11 and 47 and O. 21, Rr. 22 and 23 (1) — Execution proceedings — Decree ordered to be executed by attachment and sale of deceased judgment-debtor's property — His widow failing to raise objection to saleability in spite of issuance of prior notice under O. 21, R. 22 to her — Her subsequent application under S. 47, Civil P. C., for release of property is barred by *res judicata* even if property is her own and not of her husband

(July) 251

—S. 11—Judgment-debtor absent—Court dealing with objection on merits and rejecting it—Second application would be barred under principles of *res judicata* — *See* Civil P. C. (1908), S. 47

(Oct) 333

Civil P. C. (contd.)

—S. 20—Labour Court at place of branch office of a company can issue notice under S. 26 (5) (a) of Bihar Act (8 of 1954) to the company situate beyond its local limits of jurisdiction—*See* Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 2 (5) (Nov) 371B

—S. 38 — Decree for award of costs in contempt proceedings — Legality of High Court's order challenged without success in Supreme Court—It is not open to executing Court to go behind the order on ground of jurisdiction (March) 70B

—S. 44-A — Application for execution under S. 44-A — Notice under O. 21, R. 22 necessary — When notice can be dispensed with — *See* Civil P. C. (1908), O. 21, R. 22 (July) 228C

—S. 47 — Principles of constructive *res judicata*—Applicability to execution proceedings — *See* Civil P. C. (1908), S. 11 (Jan) 21

—S. 47 — *Ex parte* decree — Execution — Plea of partial adjustment—Disposal of case on that basis — Even if order is appealable under S. 47, the Court can take recourse to its inherent powers—*See* Civil P. C. (1908), O. 9, R. 13 (March) 79C

—S. 47 and O. 21, R. 2 — Decree passed *ex parte*—Judgment-debtor pleading complete adjustment of decree and as such disposal of execution case—Whether case would be one covered by S. 47 and as such appealable or would it be covered only by O. 21, R. 2 as regards other payments of partial nature and as such not appealable (*Quaere*) (March) 79B

—S. 47 — Applicability to land acquisition case — *See* Bihar and West Bengal (Transfer of Territories) Act (40 of 1956), S. 47 (May) 165

—S. 47 — Objection to execution which could be taken under O. 21, R. 22 if not taken cannot be agitated under S. 47, Civil P. C. — *See* Civil P. C. (1908), S. 11 (July) 251

—S. 47 — Petition under S. 47 not maintainable by person other than the judgment-debtor — Such a person may have remedies at subsequent stages (Aug) 265

—Ss. 47, 11 and 151 — Application under S. 47 rejected by executing Court on ground that neither applicant nor her husband was defendant in main suit, nor were they parties in execution case — Order held was not one of dismissal for default but on merits — Second application would be barred under principles of *res judicata* — Even where judgment-debtor is not present in Court, it is open to Court either to dismiss such application for default of applicant in exercise of its inherent powers or to deal with

Civil P. C. (contd.)

objection on merits — If the Court adopted latter course that will attract principle of *res judicata* against second application (Oct) 333

—S. 47 — Executing Court cannot go behind decree and calculate court-fee by looking into relevant record — *See* Civil P. C. (1908), O. 33, R. 10 (Nov) 359A

—S. 96 — One part of orders decided on merits — Other part related to abatement — No appeal against other part — Revision by only against first part—Other part of order cannot be interfered—*See* Civil P. C. (1908), S. 115 (Aug) 266

—S. 96 — Final decree in partition suit — Plaintiff asked to file necessary judicial stamps — Death of plaintiff—Neither certified copy of final decree could be obtained nor appeal could be preferred — Heirs of plaintiff could be substituted — *See* Civil P. C. (1908), O. 22, R. 3 (Aug) 284

—S. 96 — Appreciation of evidence — Powers of appellate Courts (Sep) 307C

—S. 97 — Order directing filing of award — Failure to appeal against — No bar to appeal against order refusing to set aside award — *See* Arbitration Act (1940), S. 39 (1) (iv) and (vi) (Sep) 307B

—Ss. 100 and 101 — Plea of limitation — Can be raised in second appeal though not raised in lower appellate Court (March) 85B

—Ss. 100 and 101—Finding as to plaintiff's possession within 12 years of suit — Finding of lower Appellate Court in reversal of that of trial Court—Finding based on consideration of same evidence—High Court cannot interfere in second appeal (June) 203B

—S. 100 and O. 1, R. 10 — Second appeal against dismissal of money suit—One of the defendants joining as appellant along with three plaintiffs appellants — Memorandum of appeal accompanied by application by him for transposition to category of plaintiff — It implies that he is willing to adopt the plaint — His prayer for transposition cannot be disallowed merely on ground that he did not file any written statement in trial Court—Appeal by such defendant who was transposed as plaintiff held maintainable though there was no decree against him (June) 215A

—S. 100 and O. 1, R. 8 — Frame of suit was held not in accordance with the provision — Easement acquired by villages, held, could not be deprived (July) 233

—Ss. 100 and 101 — Question of fact — Interference in second appeal — Finding of lower appellate Court on service of notice in question — Notice, postal acknowledg-

Civil P. C. (contd.)

ment for its delivery, admitted in evidence only by lower appellate Court — Appellate Court erring in interpreting notice and such acknowledgment — High Court will interfere with such finding (Aug) 257C

—S. 100—Second appeal—Finding of fact by first appellate Court—Finding arrived at after detailed consideration of evidence—Cannot be interfered with in second appeal (Sep) 294B (FB)

—Ss. 100-101—Proof of representative title —Absence of —Effect —See Succession Act (1925), S. 214 (Jan) 24

—Ss. 100-101 — Question of law — Acceptance of evidence given by party against its own pleading is a mistake of law (Mar) 110B

—Ss. 100-101—Substantial error or defect in procedure — What amounts to, stated — Finding of fact by trial Court reversed by lower appellate Court—High Court not entitled to interfere merely because some of reasons given by trial Court are not considered. 1968 B L J R 374 held no longer good law in view of AIR 1963 S C 302 (Apr) 128

—Ss. 100-101 — Abandonment of dwelling house—Not a pure question of fact—Can be interfered with in second appeal—See Partition Act (1893), S. 4 (Aug) 270A

—Ss. 100-101—Courts granting decree for partition and refusing permission to purchase by defendants—Second appeal — Applicability of S. 4, Partition Act (1893) cannot be agitated — See Partition Act (1893), S. 4 (Aug) 270C

—Ss. 100-101—Question of fact—Decision that property was acquired by joint family income—Decision on question of fact—Cannot be agitated in second appeal—See Hindu law (Oct) 329A

—Ss. 100-101—Decision of authority that a person is a "workman" based upon finding of the nature of work done by him — It being an inference from facts, is a question of law — See Workmen's Compensation Act (1923), S. 30 (1) Proviso 1 (Nov) 366A

—S. 104, O. 41, Rr. 14, 21, O. 27, Rr. 4, 5 — Service of notice on Government Pleader is valid service of notice on State Government — State Government not putting appearance — Case transferred—Omission to give notice of transfer — Held not a sufficient cause for non-appearance — Application under O. 41, R. 21—Dismissal—Exercise of discretion, not perverse — Order not interfered with, in appeal (Jan) 25

—S. 105 (2)—Scope and effect of — High Court remanding case for decision of question of maintainability of claim for eviction—Lower court passing decree for eviction—Second appeal before another Bench

Civil P. C. (contd.)

against decree — Bench held competent to decide maintainability of claim for eviction —S. 105 (2) held no bar (Jan) 16B

—Ss. 115, 153 and O. 6, R. 17—Amendment of pleadings—Duty of Court—Amendments allowed without giving any reasons — Amendments not really changing controversy between parties—Amendments quite necessary for determining real questions in issue —No interference (June) 181A

—S. 115—Arbitration Act (1940), Ss. 8 (2) and 20—Appointment of arbitrator by Court in pending suit — Court bound to appoint two arbitrators if agreement so requires it—Order appointing one arbitrator under misconception — Application for appointment of two arbitrators by defendant in accordance with agreement rejected by trial Court —Revision—High Court set aside order of appointment as not being in accordance with law (July) 248

—S. 115 and O. 43 R. 1 (s)—Court recalling its own order appointing receiver — Recalling order appealable — Revision against recalling order hence not maintainable (July) 256B

—Ss. 115 and 96 and O. 22, R. 2—Revision against composite order—First part of order decided on merits and evidence—Second part related to abatement of suit — No appeal preferred against second part — Held revision lay against first part — Interference refused in second part (Aug) 266

—S. 115—Revision—New plea cannot be raised for the first time in revision (Aug) 267C

—S. 115—Labour Court is a Court subordinate to the High Court — Order of, can be subject matter of a revision (Nov) 371A

—S. 115—High Court cannot take a different view on a point of fact (Nov) 371G

—S. 115—Order of reinstatement without regard to the principles governing must be held to be jurisdictional error—High Court can in such a case interfere —See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 26 (6) (b) and (a) (Nov) 371L

—S. 141—Applicability to execution proceedings—See Civil P. C. (1908), O. 9, R. 13 (Mar) 79C

—S. 141—Proceeding under S. 48 of Bihar Hindu Religious Trusts Act, 1950—They are of kind contemplated by S. 141 — See Bihar Hindu Religious Trusts Act (1950) (1 of 1951), S. 48 (Apr) 118A

—S. 148, O. 7, R. 11 (c)—Deficit court-fee — Failure to pay within time fixed by Court — Court has ample power under S. 148 to enlarge time for payment notwithstanding O. 7, R. 11 (c) (Aug) 267B

Civil P. C. (contd.)

—S. 151—Disobedience of orders of High Court by State—Even State is guilty of contempt—Fact that wrong legal advice resulted in disobedience does not affect the liability —See Constitution of India, Art. 215 (Mar) 72

—S. 151 — Execution proceedings — Proceeding not being amenable to O. 9, R. 13 — Remedy open to defendant under O. 9, R. 13 is to invoke inherent jurisdiction under S. 151—See Civil P. C. (1908), O. 9, R. 13 (Mar) 79C

—S. 151 — Remand — Inherent powers — See Civil P. C. (1908), O. 22, R. 4 (Sep) 314

—S. 151—Application under S. 47—Judgment-debtor absent—Court's inherent powers to dismiss application—See Civil P. C. (1908), S. 47 (Oct) 333

—Ss. 151, 152 — Inherent power of Court to amend decree — When cannot be exercised (Oct) 336B

—S. 151 and O. 20, R. 1 — Stay of proceeding by superior Court — Order passed without knowledge of stay order — Method of communication of orders to inferior Courts — Domestic and internal matters left for their own decision — Mere signing of order is not sufficient—It must be either intimated to parties or pronounced in open Court — Order passed without knowledge of stay order held should be recalled under inherent powers (Oct) 337

—S. 152 — No mistake arising from any accidental slip or omission — Section not applicable (Oct) 336A

—S. 152 — Inherent powers to amend decree — When should be exercised — See Civil P. C. (1908), S. 151 (Oct) 336B

—S. 153 — Amendment of pleadings — Duty of Court—See Civil P. C. (1908), S. 115 (June) 181A

—S. 153 — Mistakes — Amendments of — See Civil P. C. (1908), O. 6, R. 17 (June) 181B

—S. 153 — New plea — Amendment seeking to include — No change caused by such plea in plaintiff's original stand — Amendment should be allowed — See Civil P. C. (1908), O. 6, R. 17 (June) 181C

—S. 153 — Amendment to include subsequent events — When should be allowed — See Civil P. C. (1908), O. 6, R. 17 (June) 181D

—O. 1, R. 8 — Community as a whole interested in lands in suit — Suit not framed under O. 1, R. 8 — Community should not be deprived of its rights — See Civil P. C. (5 of 1908), S. 100 (July) 233

—O. 1, R. 10 — Second appeal — One of the defendants joining as appellant along with three plaintiff appellants — Memorandum of appeal accompanied by application

Civil P. C. (contd.)

of transposition—It implies he is willing to adopt the plaint—Appeal by him held maintainable though there was no decree against him — See Civil P. C. (1908), S. 100 (June) 215A

—O. 5, R. 10 — Provision under proviso to O. 5, R. 10 permissive — Court need not wait for service by registered post — See Civil P. C. (1908), O. 29, R. 2 (b) (July) 246

—O. 5, R. 20 (1), (2) and O. 9, R. 13 — Substituted service ordered — Ex parte decree passed — Application under O. 9, R. 13 not alleging failure to fulfil conditions under O. 5, R. 20 (1)—Application not also denying knowledge of suit claim—Substituted service effectual (Mar) 112

—O. 5, R. 20 (A) — When summons is returned unserved then O. 5, R. 20 (A) applies — See Civil P. C. (1908), O. 29, R. 2 (b) (July) 246

—O. 6, R. 2 — Principles under S. 70, Contract Act — Strict and technical view of pleadings not to be taken — See Contract Act (1872), S. 70 (Oct) 340D

—O. 6, R. 6 — Plaintiff filing suit for recovery of loan without registration under Bihar Money-lenders Act (7 of 1939) — Must plead facts that makes suit entertainable — See Debt Laws—Bihar Money-lenders (Regulation of Transactions) Act (7 of 1939), S. 4 (Sep) 294A (FB)

—O. 6, R. 17 — Scope — Power of Court to direct suo motu amendment of pleadings (Mar) 107B

—O. 6, R. 17 — Amendment of pleadings — Allowed without giving reasons—Amendment not really changing nature of controversy between parties — Amendments necessary for determining real questions in issue No interference — See Civil P. C. (1908), S. 115 (June) 181A

—O. 6, R. 17 and S. 153—Mistake—Amendments of mistakes in typing of dates, figures and mistake about real vendor of property in question — Such changes supported by documentary evidence — In plaint filed in Court a para left out by mistake—Such para dealt with in written statement — Amendment to include such para — Amendments should be allowed (June) 181B

—O. 6, R. 17 and S. 153—New plea or case — Plea of benami not mentioned in plaint—Amendment to include such plea necessary for clarifying plaintiff's case — No change caused by such plea in plaintiff's original stand — Amendment should be allowed (June) 181C

—O. 6, R. 17 and S. 153 — Cause of action — Subsequent events — Plaintiff purchasing, after institution of suit, interests of one of

Civil P. C. (contd.)

defendants in suit properties — Amendment seeking to include such change by splitting original para in plaint and by correcting new para — Amendment must be allowed (June) 181D

—O. 6, R. 17 — Notice of amended plaint, to be served on defendant — Duty of Court to see that defendant is aware of amendment — See Civil P. C. (1908), O. 22, R. 10 (July) 228B

—O. 7, R. 1 (f) — Plaintiff filing suit for recovery of loan without registration under Bihar Money-lenders Act (7 of 1939)—Must plead facts that would make suit prima facie entertainable — See Debt Laws — Bihar Money-lenders (Regulation of Transactions) Act (7 of 1939), S. 4 (Sep) 294A (FB)

—O. 7, R. 11 (c) — Court under S. 148 can always enlarge time granted for paying deficit court-fees — See Civil P. C. (1908), S. 148 (Aug) 267B

—O. 8, R. 5 — Suit for eviction — Tenant not specifically denying in pleadings date of cause of action asserted in plaint—Inference that date of cause of action was correct—See Transfer of Property Act (1882), S. 106 (Aug) 257B

—O. 9, R. 13, Ss. 151, 47 and 141 — Applicability to execution proceedings — Execution proceeding not being amenable to O. 9, R. 13, remedy open to defendant under O. 9, R. 13 is to invoke inherent jurisdiction under S. 151 (Mar) 79C

—O. 9, R. 13—Ex parte hearing — Neither party ready on earlier hearing dates — Joint petition for time to compromise, given by both parties — On date of such petition suit not even a year old — Refusal of time and ex parte hearing against defendant wrong (Mar) 98

—O. 9, R. 13—Applications under — Substituted service — Propriety—See Civil P. C. (1908), O. 5, R. 20 (1) (2) (Mar) 112

—O. 9, R. 13 — Summonses found duly served—Dismissal in default—O. 9, R. 13 has no application—See Civil P. C. (1908), O. 29, R. 2 (b) (July) 246

—O. 14, R. 1—Issue not arising on pleadings—Remand by Appellate Court—Remand illegal—See Civil P. C. (1908), O. 41, R. 25 (Mar) 107A

—O. 20, R. 1 — Stay of proceeding by superior court — Order passed without knowledge of stay order — Court to recall order and set it aside — Method of communication of orders to inferior courts—Domestic and internal matters left for its own decision — Mere signing of order is not sufficient — It must be either intimated to parties or pronounced in open court — See Civil P. C. (1908), S. 151 (Oct) 337

Civil P. C. (contd.)

—O. 20, Rr. 4 and 5 — Judgement held was beyond the scope of the pleadings and unsupported by evidence (Oct) 340A

—O. 20, R. 5—Judgment held was beyond the scope of the pleadings and unsupported by evidence — Trial Court's judgment reversed—See Civil P. C. (1908), O. 20, R. 4 (Oct) 340A

—O. 20, R. 18 — Final decree in partition suit — Plaintiff asked to file necessary judicial stamp — Death of plaintiff— Neither certified copy of final decree could be obtained nor appeal could be preferred — Heirs of plaintiff could be substituted — See Civil P. C. (1908), O. 22, R. 3 (Aug) 284

—O. 20, R. 18 (2) — Transfer made after preliminary decree — Such transfer should be ignored at time of allotment (Jan) 7

—O. 21, R. 1—Payment into Court—When is understood—Process of making payment — Presentation of challan to Court is sufficient compliance (Oct) 334

—O. 21, R. 2 and App. E, Form I — Court has no jurisdiction at all to proceed in matter unless notice is issued in Form I, App. E — Order passed by Court without issuing such notice — Order would be illegal (Mar) 79A

—O. 21, R. 2—Adjustment of ex parte decree pleaded by defendant — Disposal of execution application as such — Order whether appealable—See Civil P. C. (1908), S. 47 (Mar) 79B

—O. 21, R. 2 (2) — Copy of application by judgment-debtor served on lawyer purporting to be lawyer on behalf of decree-holder — Is service of notice validly effected (Quaere) (Mar) 79D

—O. 21, R. 10 — Execution application — Notice under R. 22 when necessary — See Civil P. C. (1908), O. 21, R. 22 (July) 228C

—O. 21, R. 15 — Joint decree — Decree specifying amount due to each plaintiff separately, but damages and cost given cumulatively — Decree is joint decree—One decree-holder can execute it for the benefit of others (May) 162D

—O. 21, R. 22—Notice when can be issued and when dispensed with — See Civil P. C. (1908), S. 11 (July) 228A

—O. 21, Rr. 22 and 10, S. 44-A — Application for execution — Service of notice under O. 21, R. 22 is imperative (July) 228C

—O. 21, R. 22 — Notice under O. 21 R. 22 served — Objection that could be taken not taken — Subsequent application under S. 47, Civil P. C. objecting to execution cannot be taken — See Civil P. C. (1908), S. 11 (July) 251

—O. 21, R. 23 (1) — Objection to executability of decree — Must be raised before

Civil P. C. (contd.)

order of issue of attachment—*See* Civil P. C. (1908), S. 11 (July) 251
 —O. 21, R. 54, O. 38, Rr. 7 and 5, Form No. 24 of Appendix E and Form No. 5 of Appendix F—Attachment of immovable property before judgment—Notice for—Form No. 24 (Appendix E) must be used for restraining defendant from transferring or charging that property in any manner—Use of Form No. 5 (Appendix F) by Court for issuing notice of attachment—Mention of condition regarding restraint is necessary to effectuate valid attachment—First Appeals Nos. 140 of 1956 and 119 of 1957, D/-5-2-1962 (Pat), **Overruled** (Sep) 299 (FB)
 —O. 21, R. 64—Execution of mortgage decree—Objections taken by judgment debtor in 1958 rejected by executing Court—Appeal and second appeal therefrom also dismissed—Fresh objections in 1960—Plea of non-saleability of homestead land—Plea not taken in 1958—Plea held barred by principles of constructive res judicata—*See* Civil P. C. (1908), S. 11 (Jan) 21
 —O. 22, R. 2—One part of order decided on merits—Other part related to abatement—No appeal against other part—Revision lay only against first part—Other part of order cannot be interfered—*See* Civil P. C. (1908), S. 115 (Aug) 266
 —O. 22, Rr. 3, 4 and 10 and O. 20 R. 18 and S. 96—Suit for partition—Preliminary decree passed—Final decree directed to be drafted on filing of non-judicial stamp—Plaintiff dying at that stage—Court, held could order substitution of heirs in the place of the deceased plaintiff—Neither certified copy of final decree could be got nor appeal preferred at that stage (Aug) 284
 —O. 22, R. 4—Final decree in partition suit—Plaintiff asked to file necessary judicial stamp—Death of plaintiff—Neither certified copy of final decree could be obtained nor appeal could be preferred—Heirs of plaintiff could be substituted—*See* Civil P. C. (1908), O. 22, R. 3 (Aug) 284
 —O. 22, Rr. 4, 9 and 11, O. 41, R. 25 and S. 151—Order of remand passed by Division Bench of High Court—Appeal allowed by lower appellate Court in pursuance of order—One of parties found to have died during pendency of appeal before D. B.—Setting aside of abatement and substitution of parties can be ordered only by the D. B. which made the order of remand (Sep) 314
 —O. 22, R. 9—Division Bench remanding case—Lower appellate Court deciding appeal—Discovery that one of the parties had died during pendency before Division Bench—Who can order setting aside abate-

Civil P. C. (contd.)

ment and substitution of parties—*See* Civil P. C. (1908), O. 22, R. 4 (Sep) 314
 —O. 22, R. 10—Duty of applicant—Nature of assignment or devolution and party from whom it is claimed must be disclosed—*See* Civil P. C. (1908), S. 11 (July) 228A
 —O. 22, R. 10, O. 6, R. 17—Application under—Contents of—Amendment of plaint—Duty of Court (July) 228B
 —O. 22, R. 10—Final decree in partition suit—Plaintiff asked to file necessary judicial stamps—Death of plaintiff—Neither certified copy of final decree could be obtained nor appeal could be preferred—Heirs of plaintiff could be substituted—*See* Civil P. C. (1908), O. 22, R. 3 (Aug) 284
 —O. 22, R. 11—Division Bench remanding case—Lower appellate court deciding appeal—Discovery that one of the parties had died during pendency before Division Bench—Who can order setting aside abatement and substitution of parties—*See* Civil P. C. (1908), O. 22, R. 4 (Sep) 314
 —O. 22, R. 22—Objection not taken on service of notice under O. 21, R. 22 cannot be subsequently raised—*See* Civil P. C. (1908), S. 11 (Jan) 21
 —O. 23, R. 3—Compromise decree—Default clause—Construction—*See* Contract Act (1872), S. 74 (Mar) 85A
 —O. 27, R. 4—Service of notice on Government Pleader is valid service of notice on the State Government—*See* Civil P. C. (1908), S. 104 (Jan) 25
 —O. 27, R. 5—Service of notice on Government Pleader is valid service of notice on the State Government—State Government not putting appearance—Case transferred—Omission to give notice of transfer—Held not a sufficient cause for non-appearance—*See* Civil P. C. (1908), S. 104 (Jan) 25
 —O. 29, R. 2 (b), O. 5, Rr. 10 and 20 (A) and O. 9, R. 13—Service of summons on a company—Word 'Corporation', in O. 29, R. 2 (b)—Meaning of—Application under O. 9, R. 13—Court not bound to find actual date of knowledge (July) 246
 —O. 30, R. 1—Suit against a firm and one only of its partners—Suit filed after its dissolution—Frame of suit could not be objected to (Oct) 340B
 —O. 32, R. 7—Arbitration Act (1940), Ss. 21, 24—Minors parties to suit—Dispute referred to arbitration—Next friend of minor not obtaining sanction of Court—Award is not binding on minor's—If minors were majors, still award will not be binding on them, if they were not parties to the reference—Minor's right to challenge the award continues even in appeal which has to be treated as continuation of suit—Dispute in

Civil P. C. (contd.)

suit not such that matter in difference between parties joining in reference can be separated from the rest of the subject matter and any attempt to separate them likely lead to inconsistent decrees—Though under S. 21, Arbitration Act reference has to be made by all parties interested, S. 24 of Arbitration Act enables court to continue suit so far as it relates to parties not joining reference, only when the same can be separated—Where they cannot be so separated, the entire reference has to be treated as illegal (June) 218D

—O. 33, R. 1—Suit not instituted as pauper suit—Court has power to allow if to continue as pauper suit subsequently (Aug) 267A

—O. 33, R. 8—Calculation as to court-fee has to be made not only when pauper succeeds but also when he fails and exact amount of court-fee has to be specified in decree—See Civil P. C. (1908), O. 33, R. 10 (Nov) 359A

—O. 33, Rr. 10, 11, 14, 8 and S. 47—Calculation as to court-fee has to be made not only when pauper succeeds but also when he fails and exact amount of court-fee has to be specified in decree—Executing court cannot go behind decree and calculate court-fee by looking into relevant record (Nov) 359A

—O. 33, R. 11—Calculation as to court-fee has to be made not only when pauper succeeds but also when he fails and exact amount of court-fee has to be specified in decree—See Civil P. C. (1908), O. 33, R. 10 (Nov) 359A

—O. 33, R. 14—Rules 10 and 11 of O. 33 should be read along with R. 14 of O. 33—See Civil P. C. (1908), O. 33, R. 10 (Nov) 359A

—O. 37, R. 2—Property in promissory note transferred by partition—Person to whom property stands so transferred is entitled to maintain suit—Suit cannot be defeated on ground of non-endorsement (June) 215B

—O. 38, R. 5—Notice under R. 5 in form 5—Not valid in attachment of property before judgment—See Civil P. C. (1908), O. 21, R. 54 (Sep) 299 (FB)

—O. 38, R. 7—Attachment of immoveable property before judgment—Mode should be same as in execution of decree—See Civil P. C. (1908), O. 21, R. 54 (Sep) 299 (FB)

—O. 39, R. 2—Grant of stay of proceedings by High Court—Certificate of advocate intimating stay should ordinarily be accepted—See Contempt of Courts Act (1926), S. 1 (May) 151

—O. 39, R. 2 (3)—Disobedience of orders

Civil P. C. (contd.)

of High Court by State—Even State is guilty of contempt—Fact that wrong legal advice resulted in disobedience does not affect the liability—See Constitution of India, Art. 215 (Mar) 72

—O. 40, R. 1—Receiver can be appointed pending appointment of new shebait—See Bihar Hindu Religious Trusts Act (1950) (1 of 1951), S. 48 (Apr) 118A

—O. 40, R. 1—Conflict of jurisdiction—Receiver for car appointed by High Court—Subsequently for same car, without knowledge of such High Court appointment, another receiver appointed by Subordinate Judge—Subordinate Judge recalling his order is correct (July) 256A

—O. 41, R. 5—Stay of proceedings—Certificate by advocate intimating it should ordinarily be accepted—See Contempt of Courts Act (1926), S. 1 (May) 151

—O. 41, R. 14—Notice on Government Pleader is valid service of notice to the Government—See Civil P. C. (1908), S. 104 (Jan) 25

—O. 41, R. 21—Application under—Dismissal—Exercise of discretion not perverse—Order not interfered with, in appeal—See Civil P. C. (1908), S. 104 (Jan) 25

—O. 41, R. 22—Right to raise cross-objection is creation of statute—No right, under Coal Bearing Areas (Acquisition and Development) Act (1959), S. 29—See Coal Bearing Areas (Acquisition and Development) Act (1957), S. 20 (July) 235A

—O. 41, R. 25 and O. 14, R. 1—Scope of O. 41, R. 25—Issue not arising on pleadings—First appellate Court framing such issue and remanding case under O. 41, R. 25—Remand illegal (Mar) 107A

—O. 41, R. 25—Case remanded for final disposal—Remand is not under R. 25—See Civil P. C. (1908), O. 22, R. 4 (Sep) 314

—O. 43, R. 1 (s)—High Court appointing receiver for one property—Subordinate court doing same without knowledge of High Court order—Subordinate court recalling its order—Order appealable—See Civil P. C. (1908), S. 115 (July) 256B

—Form No. 5, Appendix F—Use of Form 5 incorrect in attaching property before judgment—See Civil P. C. (1908), O. 21, R. 54 (Sep) 299 (FB)

—Form No. 24, Appendix E—Attachment before judgment—Use of proper form—See Civil P. C. (1908), O. 21, R. 54 (Sep) 299 (FB)

CIVIL SERVICES

—Bihar Finance Service Rules (1953), R. 39, Proviso—Expression “at the same time” in proviso, means “during the same period, at

Civil Services — Bihar Finance Service Rules

(contd.)

the same moment, not before or earlier" — Some persons appointed by direct recruitment and some by promotion to post in junior branch of finance service by notifications of different dates and put on probation — Confirmation on different dates—Proviso, held, not applicable—In view of unequivocal language of main provision in R. 39 seniority of officers to be determined in accordance with date of their substantive appointment to service (Sep) 311

Coal Bearing Areas (Acquisition and Development) Act (20 of 1957), Ss. 13, 14 — Compensation for acquisition of rights under mining leases—Claim for compensation for loss of future royalty is not maintainable

(July) 235B

—S. 13 (2) (ii)—The word "lease" does not refer to any other lease than lease under which mining rights were actually acquired (July) 235C

—S. 13 (2)—Words "rights under mining lease"—Words were descriptive of property acquired, regardless of lease under which property might have come into existence (July) 235E

—S. 14—Acquisition of rights under mining leases — Loss of future royalty — Compensation claim not maintainable—See Coal Bearing Areas (Acquisition and Development) Act (1957), S. 13 (July) 235B

—S. 20—Cross-objection by person aggrieved by award of Tribunal is not maintainable — Right of cross-objection is a creation of Statute (July) 235A

Companies Act (1 of 1956), S. 34 — Word "Corporation" used in Civil P. C. with reference to S. 34, Companies Act—Service of summons in accordance with O. 29, R. 2 (b) could be effected on company — See Civil Procedure Code (5 of 1908), O. 29, R. 2 (b) (July) 246

—Ss. 446, 537—Winding up order pending suit against Company—Absence of leave to continue suit — Decree passed is only voidable at instance of liquidator (June) 206

—S. 462 (3) — Rules 301 to 304 framed under S. 643 are subject to powers of Court under the section — See Companies (Court) Rules (1959), Rr. 301 to 304 (June) 188B

—S. 537 — Leave to proceed with suit under—Not similar to leave provided under S. 446 — See Companies Act (1956), S. 446 (June) 206

—S. 643—Companies (Court) Rules (1959), Rr. 301 to 304 — Vires of — Rules are not ultra vires the powers of the Supreme Court

Companies Act (contd.)

under the section — See Companies (Court) Rules (1959), Rr. 301 to 304 (June) 188B

Companies (Court) Rules (1959), Rr. 301 to 304—Variation of the manner or of the fees prescribed for audit of Official Liquidator's accounts — Power of High Court—Court in special circumstances is empowered to vary the procedure and the fees prescribed for audit in Rules 301 to 304. (1962) 66 Cal WN 566, Dissented from (June) 183A

—Rr. 301 to 304 — Vires — Rules are not ultra vires the powers of Supreme Court under S. 643 of Companies Act (1956)—They are subject to powers of Court under S. 462 (3) of the Act — (1962) 66 Cal WN 566, Dissented from (June) 183B

Constitution of India, Art. 14—Medical Council of India Regulations — Classification between B.Sc. (Honours) candidates and other B.Sc. candidates — Classification held violative of Article (Jan) 11A

—Art. 14 — Jain religious trust in Bihar — Election to Board—Rule by State Government enabling all the persons above 21 belonging to Swentamber sect to be included in electoral roll and those outside the State to be so included if they paid Rs. 500 to the Trust or to the Board — Rule is discriminatory and violative of Art. 14 — See Bihar Hindu Religious Trusts Act (1 of 1951), S. 8 (2) (June) 209

—Art. 14 — Power of giving relief to employee by way of reinstatement conferred on Labour Court under S. 26 (5) (b) of Bihar Act (8 of 1954) is not arbitrary or whimsical — See Shops and Establishments — Bihar Shops and Establishments Act (8 of 1954), S. 26 (5) (b) and (a) (Nov) 371L

—Arts. 25 and 26 — Articles 25 and 26 to be read and interpreted together—Fundamental right to freedom of religion extends to all persons — Word 'denomination' in Art. 26 includes denomination not only of Indian citizens but of all persons (Dec) 394A

—Art. 26—Appointment of receiver pending appointment of new shebait of a Hindu Religious Trust — Art. 26 no bar—See Bihar Hindu Religious Trusts Act (1950) (1 of 1951), S. 48 (Apr) 118A

—Art. 26 — Inclusion in electoral roll for election of Board of Swetamber Jain sect in the State—Distinction between State and outside the State Swetamber Jains in the matter of inclusion—Rule discriminatory — See Bihar Hindu Religious Trusts Act (1 of 1951), S. 8 (2) (June) 209

—Art. 26 — Word "denomination" includes denomination not only of Indian citizens but also of persons—See Constitution of India, Art. 25 (Dec) 394A

Constitution of India (contd.)

—*Arts. 26, 30* — Transfer of assets and right of management in respect of continuing educational or other institution founded or brought into existence by one founder — It cannot be said that by such transfer transferee brings into existence or rebrings into existence and establishes the institution within meaning of Art. 26 or 30 — If, however, under terms of trust, original institution was discontinued and new institution established by transferee, it may be possible to say that it was new institution established or re-established by transferee — Held, on facts that C. M. S. School was not an educational institution established by a minority nor could it be held to be re-established either in 1943 or 1958 by reason of transfer of trusteeship and management of the institution (Dec) 394F

—*Arts. 26 (a) and 30 (1)* — Educational institution, pure and simple, imparting secular education, which has been specifically dealt with under Art. 30 (1) cannot be characterised as institution for religious and charitable purposes within general provision of Art. 26 (Dec) 394E

—*Arts. 29 and 30* — Educational institution established by minority for conservation of language, script or culture within Art. 29 — For claiming protection of Art. 30 it is not essential that all students of such institution should be of the minority but there must be some averment in petition that students belonging to minority are receiving education in the institution — School established by Church Missionary Society of London having insignia of cross and imparting some teachings and recitation of prayers from Bible — No averment in petition that any student of minority community was receiving education in school — Held, C. M. S. School was an institution not falling within Art. 29 (Dec) 394G

—*Art. 30* — Pre-Constitution educational institution — Method of determining whether it was established and administered by minority consisting of Indian citizens indicated (Dec) 394D

—*Art. 30* — Transfer of assets and right of management in respect of continuing educational or other institution founded or brought into existence by one founder — Transferee cannot be said to have established institution within Art. 26 or 30 — See Constitution of India, Art. 26 (Dec) 394F

—*Art. 30* — Institution established for purposes of Art. 29 — For claiming protection under Art. 30 all students need not be of the minority — See Constitution of India, Art. 29 (Dec) 394G

—*Art. 30 (1)* — Educational institution,

Constitution of India (contd.)

pure and simple, imparting secular education, coming under Art. 30 (1) is not one coming under Art. 26 — See Constitution of India, Art. 26 (a) (Dec) 394A

—*Art. 30 (1)* — Expression 'all minorities' in Art. 30 (1) means all minorities of Indian citizens based on religion or language (Dec) 394B

—*Art. 30 (1)* — Establish and administer — Word 'and' means 'and' and not 'or' — Held, that, even assuming in favour of petitioners that the school was being administered by minority of Indian citizens, namely, the Indian Christians, they could not claim protection under Art. 30 (1) inasmuch as it was established by Church Missionary Society of London and not by a Society of which Indian Christians were members (Dec) 394C

—*Art. 166* — Publication amounting to technical contempt of High Court — Offending matter directed to be published by Law Minister and not by Council of Ministers — Entire council of ministers not liable for releasing offending matters for publication — See Contempt of Courts Act (1952), S. 3 (Apr) 140D

—*Art. 166 (3)* — Rules of Execution Business (1965), Sch. 3, Item No. 20 — Proposal for institution of withdrawal of a prosecution against advice tendered by Judicial Department — It must be referred to Council of Ministers for discussion and final orders of Governor (Apr) 140C

—*Art. 215* — Disobedience of orders of High Court by State — Even State is guilty of contempt — Fact that wrong legal advice resulted in disobedience does not affect the liability (Mar) 72

—*Art. 226* — Medical Council Regulations — Constitutionality of circular under challenge — Relief (Jan) 11C

—*Art. 227* — Scope of applications under S. 115, Civil P. C. or Art. 227 of Constitution is not very different — See Civil P. C. (1908), S. 115 (Nov) 371A

—*Art. 227* — High Court cannot take a different view on point of fact — See Civil P. C. (1908), S. 115 (Nov) 371C

—*Art. 227* — Order of reinstatement without regard to the principles governing must be held to be jurisdictional error — High Court can in such a case interfere — See Shops and Establishments — Bihar Shops and Establishments Act (8 of 1954), S. 26 (b) and (a) (Nov) 371L

—*Art. 245* — Pre-constitutional law — Not to govern laws made under Art. 245 — However Art. 245 did not obliterate effect of S. 3 of Regulation 3 of 1872 — See Santhal Parganas

Constitution of India (contd.)

Settlement Regulation (Regn. 3 of 1872), S. 3 (Oct) 331

—*Art. 245* — Section 26 of Bihar Act (8 of 1954) is valid — No excessive delegation of legislating authority — *See* Shops and Establishments — Bihar Shops and Establishments Act (8 of 1954), S. 26 (Nov) 371D

—*Art. 246* — Does not obliterate effect of S. 3 of Santhal Parganas Regulations (Reg. 3 of 1872)—*See* Santhal Parganas Settlement Regulation (Reg. 3 of 1872), S. 3 (Oct) 331

—*Art. 254 (2)* — Bihar Sugar Factories Control Act, 1937 became void on coming into force of the Essential Commodities Act 1955—State Legislature's attempt to extend its life beyond 30.6.55 was of no effect as it did not follow the procedure prescribed under cl. (2) of Art. 254 — *See* Bihar Sugar Factories Control Act (7 of 1937), S. 18 (2) (Jan) 8A

—*Art. 299* — Government of India Act (1935), S. 175 (3)—Contract between Government and Private firm—Requirements of S. 175 (3) to be fulfilled—Otherwise, contract would be void and unenforceable—However, S. 70 of Contract Act could apply if its conditions are satisfied — *See* Government of India Act (1935), S. 175 (8) (Oct) 340C

—*Art. 366 (10)*—Bihar Sugar Factories Control Act, 1937 was an existing law within Article 54 till Essential Commodities Act, 1955 was passed and enforced—*See* Bihar Sugar Factories Control Act (7 of 1937), S. 18 (2) (Jan) 8A

—*S. 372*—Bihar Sugar Factories Control Act, 1937 was an existing law within Art. 366 (10) and continued to be in force under Art. 372 till the Essential Commodities Act was passed by Parliament in exercise of powers conferred by Sch. 7, List 3, Entry 33 to the Constitution—*See* Bihar Sugar Factories Control Act (7 of 1937), S. 18 (2) (Jan) 8A

—*Art. 372*—Santhal Parganas Settlement Regulations (Reg. 3 of 1872)—Was law in force before advent of Constitution—Still holds good—*See* Santhal Parganas Settlement Regulation (Reg. 3 of 1872), S. 3 (Oct) 331

—*Sch. 7, List 3, Entry 33* — Passing of Essential Commodities Act under—Effect—*See* Bihar Sugar Factories Control Act (7 of 1937), S. 18 (2) (Jan) 8A

Contempt of Courts Act (12 of 1926), S. 1—Grant of stay of proceeding by High Court—Certificate by advocate intimating stay should ordinarily be accepted (May) 151

Contempt of Courts Act (32 of 1952), S. 1—Disobedience of orders of High Court by State—Even State is guilty of contempt—Fact that wrong legal advice resulted in

Contempt of Courts Act (contd.)

disobedience does not affect the liability—*See* Constitution of India, Art. 215 (Mar) 72

—*Ss. 1, 3*—Interference with due course of justice in pending cases — Revision petitions before High Court against order of committal Court declining permission to withdraw prosecution — Offending publication creating atmosphere of prejudice against petitioner—Publication, held did amount to technical contempt of High Court: (Apr) 140A

—*S. 3*—Interference with due course of justice in pending cases—Revision petitions before High Court against order of committal Court declining permission to withdraw prosecution — Offending publication creating atmosphere of prejudice against petitioner—Publication held did amount to technical contempt of High Court — *See* Contempt of Courts Act (1952), S. 1 (Apr) 140A

—*S. 3*—Publication amounting to technical contempt of High Court — Offending matter directed to be published by the then Law Minister and not by Council of Ministers — Entire Council of Ministers cannot be held liable for releasing offending matter for publication (Apr) 140D

—*S. 3*—Publication amounting to technical contempt of High Court — Offending publication should not have been made by editor and printer of daily newspaper as a matter of routine—Fact that it was published in official gazette is no justification for publication made by them—Both responsible for contempt of High Court (Apr) 140E

—*S. 4*—Conviction for contempt of Court — Award of costs—High Court has inherent power to award costs (Mar) 70A

—*S. 4*—Punishment—Publication amounting to technical contempt of High Court—Contempt committed is of technical character—Neither sentence of imprisonment nor that of fine imposed — Only warning given (Apr) 140F

—*S. 4*—Belated apology — Effect of — *See* Penal Code (1860), S. 228 (Oct) 323A

Contract Act (9 of 1872), S. 2 (g)—Void agreement — No reference to Arbitration maintainable — *See* Arbitration Act (1940), S. 20 (Oct) 322A

—*S. 29* — Reference for arbitration — Vagueness in agreement (Apr) 114C

—*S. 62* — Partition between brothers effected by registered deed but not by metes and bounds — Mistake in deed corrected by unregistered document resulting in increase of share of one—Other brother selling his share, received under original deed — Purchaser is not affected by the subsequent correction under unregistered deed (Mar) 110A

Contract Act (contd.)

—S. 70—Government of India Act (1935), S. 175 (3)—Contract between Government and Private firm—Requirements of S. 175 (3) to be fulfilled — Otherwise, contract would be void and unenforceable — However, S. 70 of Contract Act could apply if its conditions are satisfied—See Government of India Act (1935), S. 175 (3) (Oct) 340C

—S. 70—Principles under — Application of—Strict and technical view of pleadings not to be taken (Oct) 340D

—S. 74—Suit to recover loan with interest —Decrees passed on basis of compromise between parties — Compromise providing that creditor would accept a sum forgoing even a part of principal amount in full discharge if paid before a certain date — Default clause in compromise that, if debtor failed, creditor would be entitled to decree for full amount of claim with future interest and costs—Default clause contains no element of penalty as it gave no advantage to the creditor who would have got a decree in the same terms even if debtor had chosen to contest the claim—The terms of the compromise considered as a whole were advantageous only to the debtor (Mar) 85A

—Ss. 176, 211, 214 and 215 — Right of pawnee to sell the goods pledged—Nature of right—Pawnee's duty when the purchaser raises a dispute regarding quality of goods —First sale being good and not annulled, the pawnee cannot resell under S. 176 (Dec) 385C

—S. 211—Sale of pawned goods by pawnee —Purchaser raising dispute regarding quality of goods—It becomes duty of pawnee to use all reasonable diligence in communicating to pawner seeking their instructions — See Contract Act (1872), S. 176 (Dec) 385C

—S. 214—Sale of pawned goods by pawnee —Purchaser raising dispute regarding quality of goods — Duty under section arises — See Contract Act (1872), S. 176 (Dec) 385C

—S. 215—Sale of pawned goods by pawnee —Quality of goods disputed by purchaser —Section is attracted — See Contract Act (1872), S. 176 (Dec) 385C

CO-OPERATIVE SOCIETIES

—Bihar and Orissa Co-operative Societies Act (6 of 1935), S. 40 — Prosecution of secretary of co-operative society for offence under S. 409, Penal Code — Prosecution initiated by Assistant Registrar of Co-operative Societies — Prosecution legal. (Penal Code (1860), S. 409) (May) 173B

—S. 40 — Whether office bearer of co-operative society, discharging duty as such is public servant (Quaere)—See Penal Code (1860), S. 21 (10) (May) 173C

Court-fees Act (7 of 1870)

See under Court-fees and Suits Valuations
COURT-FEES AND SUITS VALUATIONS

—Court Fees Act (7 of 1870), S. 4 — Memorandum of appeal should be properly stamped as required by S. 4—See Limitation Act (1908), Art. 182, Cl. (2) (Nov) 359B

Criminal Law Amendment Ordinance (38 of 1944), S. 3 — Charge of defalcation of Government fund — Attachment of property under—Property if procured out of fund — Question is immaterial—Property must be that of accused (Jan) 30A

—S. 5 (2) — Words "some interest in property attached" under — Should mean independent right of objector — Onus is on objector to establish such right failing which his claim under S. 5 is vitiated (Jan) 30B

Criminal Procedure Code (5 of 1898), S. 4 (1) (w) — Violation of R. 3 of Imported Foodgrains (Prohibition of Unauthorised Sale) Order — Prosecution and defence witnesses examined on the same day — Trial illegal—See Essential Commodities Act (1955), S. 7 (Mar) 105

—S. 107 — Magistrate acting under S. 107 ordering petitioners to show cause and by same order directing them to furnish ad interim bonds on next date — Validity— See Criminal P. C. (1898), S. 117 (3) (Nov) 369

—Ss. 117(3), 107—Magistrate acting under S. 107 ordering petitioners to show cause and by same order directing them to furnish ad interim bonds on next date— Held, as inquiry against petitioners had not commenced, stage for execution of ad interim bond had not arrived and hence that part of order must be set aside (Nov) 369

—S. 145 — Judgment of High Court in previous criminal case — Use by Court to prove possession of land — Evidence quantum valebat — Though not relevant under S. 43 relevant under S. 13 — See Evidence Act (1872), S. 13 (Sep) 317B

—S. 145—Object explained (Sep) 317D

—S. 145—Dispute under—More than one item of property involved — Magistrate holding all items to be in dispute whereas one item was not under dispute — Held, that though there is an error on record, it being minor one, entire proceeding need not be quashed (Sep) 317E

—S. 165 — Protection under Judicial Officers' Protection Act is not absolute—See Judicial Officers Protection Act (1950), S. 1 (June) 194A

—S. 190 — Violation of R. 3 of Imported Foodgrains (Prohibition of Unauthorised Sale) Order — Cognisance taken on basis of report of Magistrate deputed to search pre-

Criminal P. C. (contd.)

mises of accused — Trial — Validity — See Essential Commodities Act (1955), S. 7

(Mar) 105

—Ss. 190 and 247—Report of excise officer under S. 77, Bihar and Orissa Excise Act—Is a police report and not a complaint for purposes of Ss. 190 and 247 — Absence of Excise Officer on date of hearing—Acquittal of accused under S. 247 is illegal: (July) 253

—S. 190 (1) (a) — Provisions under—Not affected by provisions of Ss. 480, 482 — See Criminal P. C. (1898), S. 480 (Oct) 323D

—S. 192 —Stage at which transfer should be ordered — Cognisance of case taken — Enquiry directed against one of accused — No order made on enquiry report — Case transferred — Transfer legal (Mar) 97

—S. 195—Complaint under—Court is not obliged to follow summary proceedings under Ss. 480, 482—See Criminal P. C. (1898), S. 480 (Oct) 323D

—S. 247 — Report of excise officer under S. 77, Bihar and Orissa Excise Act—Is a police report and not a complaint for purposes of Ss. 190 and 247—Absence of Excise Officer on date of hearing — Acquittal of accused under S. 247 is illegal — Powers of Excise Officer — See Criminal P. C. (1898), S. 190 (July) 253

—S. 252—Trial for violation of Imported Foodgrains (Prohibition of Unauthorised Sale) Order — Validity of procedure—See Essential Commodities Act (1955), S. 7

(Mar) 105
—S. 255 — Trial for violation of R. 3, Imported Foodgrains (Prohibition of Unauthorised Sale) Order — Procedure—Validity — See Essential Commodities Act (1955), S. 7

(Mar) 105
—S. 256 (1) — Trial for violation of R. 3 of Imported Foodgrains (Prohibition of Unauthorised Sale) Order — Procedure — Validity — See Essential Commodities Act (1955), S. 7 (Mar) 105

—S. 262 (1)—Violation of R. 3 of Imported Foodgrains (Prohibition of Unauthorised Sale) Order—Trial—Validity of procedure—See Essential Commodities Act (1955), S. 7—

(Mar) 105
—Ss. 367, 439—Pure question of appreciation of evidence — Cannot be investigated into in revision (Sep) 317C

—S. 369 — Order rejecting prayer of prosecution for cross-examining witness—Order is in the nature of interlocutory order and not judgment — Hence Court can allow the prayer on a second application, even on the same facts, in the ends of justice (Dec) 415A

—Ss. 386 (1) (b) (iii) and 561-A — Order for award of costs in contempt proceedings — Warrant ordered to be sent to Collector au-

Criminal P. C. (contd.)

thorising him to realise the amount — Held, that the section had no application, but that the High Court had inherent power to execute and enforce its order (Mar) 70C

—S. 423 — Conviction of accused under Ss. 302/34, Penal Code — Sentence of death held should be altered to one of R. I. for life—See Penal Code (45 of 1860), Ss. 302/34

(Dec) 411
—S. 439—Scope of S. 494 — Refusing consent to withdrawal, manifestly improper — High Court has power to interfere — See Criminal P. C. (1898), S. 494 (Apr) 140B

—S. 439 — Appreciation of evidence — Not open to investigation in revision — See Criminal P. C. (1898), S. 367 (Sep) 317C

—S. 476 — Power to make preliminary enquiry is discretionary — Absence of such enquiry — Proceeding does not vitiate (Oct) 323B

—S. 476 — Words “subject to the provision of Chap. 35” in S. 228—Cover procedure under S. 476 — See Criminal P. C. (1898), S. 480 (Oct) 323D

—Ss. 480, 482, 476, 195, 190 (1) (a) — Case of direct contempt — Court is not obliged to follow summary proceedings under Ss. 480, 482—No conflict in Ss. 480 and 476: (Oct) 323D

—S. 482 — Not exhaustive — Does not derogate from power of Court to take cognizance of offence under S. 190 (1) (a) on complaint under S. 195 — See Criminal P. C. (1898), S. 480 (Oct) 323D

—Ss. 494, 339—Scope of S. 494 — Refusing consent to withdrawal, manifestly improper — High Court has power to interfere (Apr) 140B

—S. 537 — Trial for violation of R. 3 of Imported Food Grains (Prohibition of Unauthorised Sale) Order — Prosecution and defence witnesses examined on same day — Trial illegal — No cure under S. 537 — See Essential Commodities Act (1955), S. 7

(Mar) 105
—S. 561-A — Conviction for contempt of Court — High Court has inherent powers to award of costs—See Contempt of Courts Act (1952), S. 4 (Mar) 70A

—S. 561-A—Award of cost in contempt proceedings — High Court has inherent power to execute and enforce its order — See Criminal P. C. (1898), S. 386 (1) (Mar) 70C

—S. 561-A — Application to quash proceeding under S. 228, Penal Code (1860) — High Court cannot re-appreciate evidence in exercise of its inherent power (Oct) 323C

DEBT LAWS

—Bihar Money-lenders (Regulation of Transactions) Act (7 of 1939), S. 4 — Interpretation of — Suit for recovery of loan without registration — Entertainability of — Burden of

Debt Laws—Bihar Money-lenders (Regulation of Transactions) Act (contd.)

proof — Burden is on plaintiff — AIR 1963 Pat 356, Overruled (Sep) 294A (FB)
 — Chotanagpur Encumbered Estates Act (6 of 1876), S. 12-A (1) (a) and (3) — Khorposh grant is alienation of property within meaning of S. 12A (1) (a) — Such grant is void under S. 12A (3) if it is made without previous sanction of Commissioner: Decision of Misra, J. in Compensation Appeal No. 1 of 1964 (Pat), Reversed (Feb) 48A

Easements Act (5 of 1882), S. 15—Orchard in enjoyment of village community for over twenty years — Community deemed to have acquired easement — See Civil Procedure Code (5 of 1908), S. 100 (July) 233

Electricity Act (9 of 1910), Ss. 12, 19, 51 — Telegraph Act (1885), Ss. 10 and 15 — New levy on electric poles put up in Municipal Corporation area — Power of Corporation questioned—It amounts to a dispute between electricity company and local authority — S. 15 of Telegraph Act must be applied and dispute referred to arbitration (Nov) 355

—S. 19—Section does not cover all disputes between the licensee and the authority resisting exercise of necessary power by licensee — See Electricity Act (1910), S. 12 (Nov) 355

—S. 51 — Dispute between electricity Company and local authority—Section 15 of Telegraph Act must be applied and dispute referred to arbitration — See Electricity Act (1910), S. 12 (Nov) 355

Essential Commodities Act (10 of 1955), Ss. 7 and 12A — Violation of R. 3 of Imported Foodgrains (Prohibition of Unauthorised Sale) Order—Cognisance taken on basis of report of magistrate deputed to search premises of accused—Prosecution and defence witnesses examined on same date — Trial illegal—No cure under S. 537, Criminal P.C. (Mar) 105

—S. 12A—Violation of R. 3 of Imported Foodgrains (Prohibition of Unauthorised Sale) Order—Trial for—Validity—See Essential Commodities Act (1955), S. 7 (Mar) 105

—S. 16 (1) (b)—Repeal of Bihar Sugar Factories Control Act (7 of 1937)—See Bihar Sugar Factories Control Act (7 of 1937), S. 18 (2) (Jan) 8A

Evidence Act (1 of 1872), S. 5 — Permission to cross-examine witness by itself is not enough to discredit him—See Evidence Act (1 of 1872), S. 151 (Dec) 415C

—Ss. 13, 43—Criminal P. C. (1898), S. 145 — Dispute regarding possession of immovable property—Magistrate mainly relying upon affidavits of parties for coming to conclusion as to possession — Finding of High Court

Evidence Act (contd.)

regarding possession of disputed property given in a previous case also relied upon — Held, that finding can be used as a piece of evidence of possession quantum valebat in the case (Sep) 317B

—Ss. 18, 21, 115—Admission in the pleading of a previous suit—Admission binds the party making it in subsequent suit—Admission can be used against him in the subsequent suit—Admission by agent without instigation of or without benefit to principal is not binding on principal (Dec) 385A

—S. 21—Admission by agent without instigation of or without benefit to principal is not binding on principal—See Evidence Act (1 of 1872), S. 18 (Dec) 385A

—S. 32 (2) — Commissioner dying after filing his report — His report is admissible in evidence under the provision (Dec) 385B

—S. 43—Judgment of High Court in previous criminal case—Use by Court to prove possession of land—Evidence quantum valebat — Though not relevant under S. 43 relevant under S. 13—See Evidence Act (1872), S. 13 (Sep) 371B

—Ss. 50 and 60—Conduct of a member of family—Evidence of a person having special means of knowledge admissible—He need not be a member of the family — Person watching the conduct of members to be treated as person with special means of knowledge—Such person's evidence must be admissible under S. 60 (Mar) 82

—S. 50—Nature of evidence admissible under — Suit for partition (Oct) 329B

—S. 60—Conduct of member of family—Person watching the conduct of members to be treated as person with special means of knowledge—Such person's evidence is admissible under S. 60—See Evidence Act (1872), S. 50 (Mar) 82

—S. 63—Original award — What is — Secondary evidence of award—See Arbitration Act (10 of 1940), S. 17 (June) 218B

—S. 63 — Section is exhaustive of the secondary evidence — Draft of award of arbitrators, from which the award was prepared, unless shown to have been compared with the fair award is not secondary evidence of the award (June) 218C

—Ss. 101, 114 — Negotiable Instruments Act (1881), Ss. 118, 13 and 20 — Suit based on handnote—Endorsement portion of handnote below the stamp and upto the date written in the pen of defendants—It is a negotiable instrument—Circumstance that body portion is not in the pen of defendants does not make any difference — Presumption will arise under S. 118 that it was made or drawn for consideration—Burden lies on defendants to rebut that presumption (June) 215C

Evidence Act (contd.)

—Ss. 101-102—Distinction between—"Burden of proof" as a matter of law and pleading and as a matter of adducing evidence—See Debt Laws—Bihar Money-lenders (Regulation of Transactions) Act (7 of 1939), S. 4

(Sep) 294A (FB)

—Ss. 101-104—Onus to prove exception provided in S. 42 (1) (a) of the Provincial Insolvency Act is on the insolvent—See Provincial Insolvency Act (1920), S. 42 (1) (a)

(Jan) 28

—Ss. 101-104—Attachment of property under Criminal Law Amendment Ordinance, 1944—Objection to—Onus is on the objector to establish his independent right to the property attached, failing which his claim under S. 5 of the Ordinance is vitiated—See Criminal Law Amendment Ordinance (1944), S. 5 (2)

(Jan) 30B

—S. 114—Handnote endorsement on which was in the hand of defendant—Is negotiable instrument—Circumstance that body portion not in the hand of defendant makes no difference—Presumption is that it was made or drawn for consideration—See Evidence Act (1872), S. 101

(June) 215C

—S. 115—Admission in the pleading of a previous suit—Admission binds the party making it in subsequent suit and can be used against him—See Evidence Act (1 of 1872), S. 18

(Dec) 385A

—S. 116—Estoppel—Quit notice given by person claiming to be donee of landlord—Tenant not setting up his own title but questioning bona fides of gift—Tenant also asserting donor as landlord—Eviction suit—Plea of non-service of valid notice under S. 106 of Transfer of Property Act—Tenant entitled to raise such plea

(Aug) 257A

—S. 154—Hostile witness—Witness only tendered before but not examined—Still Court can declare him hostile and allow party to cross-examine him—Power of Court to declare witness hostile is not limited by section to cases where there is any previous statement of witness and from which he is alleged to have departed

(Dec) 415B

—Ss. 154 and 5—Permission to cross-examine witness by itself is not enough to discredit the witness

(Dec) 415C

—S. 154—A party can cross-examine even a witness tendered by it

(Dec) 415D

General Clauses Act (10 of 1897), S. 3 (13)—Administration of Evacuee Property (Amendment) Act received President's assent on S. 10.54 and hence commenced to operate from that date—See Administration of Evacuee Property Act (1950), S. 7

(Aug) 272A

—S. 9—Commencement and end of period under S. 105, T. P. Act how computed—See T. P. Act (1952), S. 106

(Sep) 310

General Clauses Act (contd.)

—S. 16—Power to change, substitute—Members of Majlis constituted under Bihar Wakfs Act (8 of 1948)—Members once nominated cannot be changed under S. 16—See Bihar Wakfs Act (8 of 1948), S. 14

(Oct) 347

Government of India Act (1935), 26 Geo. V & 1 Edw. VIII, C. 2, S. 175 (3)—Contract between Government and private firm—Requirements of S. 175 (3) to be fulfilled—Otherwise, contract would be void and unenforceable—However, S. 70 of Contract Act would apply if its conditions are satisfied

(Oct) 340C

Hindu Law—Joint Hindu family—Female member can act as 'Karta' thereof under particular circumstances

(Sep) 317A

—Partition—Joint family property—Jointness of members and purchase of disputed immovable properties from income of joint family business found by lower Courts to have been proved by direct evidence—Question of sufficient nucleus from income of which disputed properties could have been purchased does not arise—Party cannot be permitted to reargue question of fact

(Oct) 329A

—Shebait—Income of shebait of an idol as such—Nature of—See Income Tax Act (1922), S. 2 (6AA)

(Mar) 95

Hindu Marriage Act (25 of 1955), S. 9—Application for restitution of conjugal rights by husband after ten years from withdrawal by wife from his society—Maintainability—See Hindu Marriage Act (1955), S. 23 (1) (d)

(Jan) 27A

—S. 9—Decree of restitution of conjugal rights—Not executed by husband for 2 years—Wife can apply for divorce—See Hindu Marriage Act (1955), S. 13 (1) (ix): (Jan) 27B

—S. 9—Application for restitution of conjugal rights by husband—Court must give serious consideration to evidence of wife and her parents and cannot refuse to do so on ground of their being interested witnesses

Jan 27C

—Ss. 13 (1) (ix) and 9—Decree for restitution of conjugal rights in favour of husband—Failure by husband to take steps to give effect to it for more than 2 years—Wife is entitled to ask for divorce and decree for restitution of conjugal rights becomes ineffective when she does so

(Jan) 27B

—Ss. 23 (1) (d) and 9—Application for restitution of conjugal rights by husband after ten years from withdrawal by wife from his society—No satisfactory explanation given for such inordinate delay—Decree for restitution of conjugal rights in favour of husband not sustainable (Jan) 27A

HOUSES AND RENTS

—Bihar Buildings (Lease, Rent and Eviction) Control Act (3 of 1947), S. 11 — Validity — Does not violate Art. 19 (1) (f) of Constitution (Aug) 287B

—S. 11 — Suit for eviction — Arising in Santhal Pargana and valued below Rs. 500/-

—Notice under S. 106, T. P. Act (1882) not necessary — See Tenancy Laws — Santhal Parganas Settlement Regulation (Reg. 3 of 1872), S. 3 (Oct) 331

—S. 11 (1) (c) — Word 'occupation' in S. 11 (1) (c) cannot be interpreted to include construction or reconstruction of building (Aug) 287A

—S. 11 (1) (d) — Maintainability of claim for eviction — Second appeal after remand before another Bench—Competency of the Bench to decide maintainability of the claim for eviction — See Civil P. C. (1908), S. 105 (2) (Jan) 16B

—S. 11 (1) (d) — Action for eviction under — Non-service of notice under S. 106, T. P. Act—Action is premature (Jan) 16C

—S. 11A — Scope—Application by landlord for deposit of rent by tenant and withdrawal of it — One composite order with regard to both reliefs not proper—Opportunity of hearing must be given on both occasions (Mar) 100

Imported Foodgrains (Prohibition of Unauthorised Sale) Order (1958), R. 3 — Prosecution for violation of — Prosecution and defence witnesses examined on same day — Trial illegal—Not curable under S. 537, Criminal P. C.—See Essential Commodities Act (1955), S. 7 (Mar) 105

Income Tax Act (11 of 1922), Ss. 2 (6AA), 41 (1)—Income earned by shebait of an idol, as shebait is "earned income" of idol: (Mar) 95

—S. 41 (1) — Income of shebait of an "idol" as such—Is "earned income" of idol —See Income Tax Act (1922), S. 2 (6AA) (Mar) 95

Industrial Disputes Act (14 of 1947), S. 2 (s) — "Workman" under S. 33C (2) includes ex-workman — See Industrial Disputes Act (1947), S. 33C (2) (May) 147

—S. 7 — Labour Court is a Court subordinate to High Court — Order of can be subject-matter of revision — See Civil Procedure Code (5 of 1903), S. 115 (Nov) 371A

—S. 10—Quantum of available surplus — Dispute over — Machinery of Act can be used to decide it even though not an industrial dispute — See Payment of Bonus Act (1965), S. 10 (Oct) 349B

—S. 10 — Domestic enquiry for misconduct— Scope of proceedings before Labour Court in cases coming under provisions of Bihar Shops and Establishments Act is quite

Industrial Disputes Act (*contd.*)

different from those of under Industrial Disputes Act — See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 26 (Nov) 371F

—S. 10A — Quantum of available surplus — Dispute over — Machinery of Act can be used to decide it even though not an industrial dispute—See Payment of Bonus Act (1965), S. 10 (Oct) 349B

—S. 33—Quantum of available surplus — Dispute over — Machinery of Act can be used to decide it even though not an industrial dispute — See Payment of Bonus Act (1965), S. 10 (Oct) 349B

—S. 33 — Bihar Shops and Establishments Act (8 of 1954), S. 26—Domestic enquiry for misconduct — Scope of proceedings before Labour Court under the two provisions distinguished—See Shops and Establishments — Bihar Shops and Establishments Act (8 of 1954), S. 26 (Nov) 371F

—S. 33A—Quantum of available surplus— Dispute over — Machinery of Act can be used to decide it even though not an industrial dispute — See Payment of Bonus Act (1965), S. 10 (Oct) 349B

—S. 33H — Bihar Shops and Establishments Act (8 of 1954), S. 26 — Domestic enquiry for misconduct—Scope of proceedings before Labour Court, under the two provisions distinguished — See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 26 (Nov) 371F

—Ss. 33C (2), 2 (s) — "Workman" under S. 33C (2) includes ex-workman: (May) 147

—Sch. III, Item 5—Retiring Gratuity Rules of Tisco company became an implied condition of service of all employees of Tisco Ltd.—But Gratuity cannot be claimed as of right (Feb) 53B

—Sch. III, Item 5 — Precedent — Right of employee under retiring gratuity rules of employer company — Interpretation of rules involved — Cases decided under Industrial Disputes Act are not a safe guide—See Civil P. C. (1908), Pre. (Feb) 53C

—Sch. III, Item 5 and S. 15 — Retiring gratuity is no longer a gratuitous payment but only an earned money — Where rules do not enable employee to claim gratuity as of right, civil Courts cannot enforce such claim — Tribunals can do so. (1884) ILR 6 All 173 and (1884) ILR 6 All 634 and AIR 1924 Bom 88 and AIR 1943 Bom 453 and AIR 1932 Pat 311 and AIR 1933 Cal 409, held no longer good law in view of AIR 1950 S C 188 (Feb) 53D

Industrial Employment (Standing Orders) Act (2 of 1946), Pre. and S. 7 — Works Standing Orders of Tisco Ltd. — Standing Orders although primarily govern service condi-

Industrial Employment (Standing Orders) Act
(*contd.*)

tions of workmen, are not inapplicable to employees who claim to be governed by them (Feb) 53A

—S. 7 — Works Standing Orders of Tisco Ltd., Standing Orders although primarily govern service conditions of workmen, are not inapplicable to employees who claim to be governed by them—See Industrial Employment (Standing Orders) Act (1946) Pre.

(Feb) 53A

Judicial Officers' Protection Act (18 of 1850), S. 1—Protection under is not absolute but only qualified — Arrest of person beyond territorial jurisdiction—Liability in tort for damages (June) 194A

Land Acquisition Act (1 of 1894), S. 18 — Scope and applicability — Provisos of S. 18 are mandatory — Application for reference, not made within prescribed time — Land Acquisition Judge can refuse to entertain reference and can reject it on this ground—AIR 1963 All 556 (FB) and AIR 1929 All 769 and AIR 1958 Punj 490, Dissented from

(Apr) 131

Limitation Act (9 of 1908), S. 3 — Plea of limitation—Can be raised in second appeal for the first time — See Civil P. C. (1908), Ss. 100-101 (Mar) 85B

—S. 12—Time requisite for obtaining copy of award should be excluded in computing period of limitation (July) 235D

—S. 18 — Computation of period of limitation — When computation is to be made from particular date, such date is excluded from computation (May) 160A

—S. 21 — Acknowledgment by one of two joint executors of promissory note—Limitation will be saved against him only

(May) 160B

—Art. 31—Consignment of goods by Railway on 8-2-1962 — Goods arrived and unloaded at destination station on 12-2-1962 to the knowledge of consignee-plaintiff—Plaintiff finding goods in damaged state and taking open delivery on 12-3-1962—Limitation — Limitation starts from the date of arrival of the goods and not from the date of open delivery — Fact that plaintiff came to know that there was short delivery only on 12-3-1962 is not relevant for computing period of limitation though it may give cause of action for claiming compensation for such short delivery (May) 154

—Art. 158—Date of service of notice — It means informal notice and not only intimation (Apr) 114A

—Art. 158 — No application with prayer for setting aside award on grounds covered by S. 30 within limitation prescribed by article—Order accepting award is not ap-

Limitation Act (1908) (*contd.*)

pealable under S. 39 (1) (vi) — See Arbitration Act (1940), S. 30 (June) 218

—Art. 182, Cl. (2) — Memorandum of appeal found defective with regard to valuation—Defect neither removed nor explained — Rejection of memorandum of appeal — Held, there was no appeal and Cl. (2) of Art. 182 was not applicable—It would apply when memorandum of appeal had been accepted and appeal had been admitted

(Nov) 359B

—Art. 182 (4) — Compromise decree containing default clause — Decree-holder applying on default by judgment-debtor for amendment of decree in terms of the clause — Amendment does not provide fresh starting point (Mar) 85C

—Sch. I Art. 158—Written statement, to proceeding under S. 14, Arbitration Act (1940) to be treated as application challenging award must be filed within limitation—See Arbitration Act (1940), S. 14 (2) (Sep) 307A

Limitation Act (36 of 1963), S. 5—Application for condonation of delay in filing revision — Its dismissal does not amount to affirmation of order sought to be revised—See Civil P. C. (1908), S. 115 (July) 248

—Art. 11—Suit for compensation for short delivery against Railway administration—Limitation—Starting point—See Limitation Act (1908), Art. 31 (May) 154

—Art. 64 — Equity of redemption—Usufructuary mortgage—Admission by mortgagor that in default of payment on due date, the mortgagee has become absolute owner—Title by adverse possession cannot be claimed — Further unless both parties are cognizant of their rights there can be no acquiescence—See Transfer of Property Act (1882), S. 60 (Feb) 64B

—Art. 65 — Equity of redemption—Usufructuary mortgage—Admission by mortgagor that in default of payment on due date, the mortgagee has become absolute owner—Title by adverse possession cannot be claimed—Further unless both parties are cognizant of their rights there can be no acquiescence—See Transfer of Property Act (1882), S. 60 (Feb) 64B

Lunacy Act (4 of 1912), Ss. 3 (5), 65 (2)—Lunatic — Meaning of—Distinction between lunacy as understood in the Act and mere weakness of intellect—Procedure laid down must be strictly followed (Feb) 33C

—Ss. 18 (1), 62—Omission to give medical certificate in Form III of Schedule 1—Effect (Feb) 33D

—S. 62—Application under—Need not be accompanied either by affidavit or medical certificate. AIR 1920 All 30, Dissent from (Feb) 33B

Lunacy Act (contd.)

—S. 62—Omission to give medical certificate as prescribed — Effect—*See* Lunacy Act (1912), S. 13 (1) (Feb) 33D

—S. 65 (2)—Court must find that alleged lunatic is of unsound mind and incapable of managing himself and his affairs—High Court has power under S. 83 to correct a wrong finding under S. 65 (2)—*See* Lunacy Act (1912), S. 3 (5) (Feb) 33C

—S. 83—Who can appeal (Feb) 33A

—S. 83—Order passed by Court about property in hands of manager after death of lunatic—Order is appealable under S. 83 (Feb) 33E

Medical Council Act (102 of 1956), S. 19A (as amended in 1964)—Draft regulation—Sanction by Central Government — Advisory value (Jan) 11B

Motor Vehicles Act (4 of 1939), Ss. 57(8) and 68A to 68-F—Private transport operator seeking extension of route—Portion of such extension forming part of notified route—Extension cannot be granted by Regional Transport Authority, or Board of Appeal or Revisional Authority (June) 192

—S. 58 (2)—Application for renewal of permit containing alternative prayer for issue of permit for different route—Application treated as for one prayer—Payment of fee on that basis, held, sufficient and valid (Oct) 345

—Ss. 68A to 68F—Private transport operation seeking extension of route—Part of route forming part of notified route—Extension cannot be granted—*See* Motor Vehicles Act (1939), S. 57 (8) (June) 192

MUNICIPALITIES

—**Bihar and Orissa Municipal Act (7 of 1922), S. 4**—S. 390A is subject to provisions of both Ss. 4 and 5—*See* Municipalities—Bihar and Orissa Municipal Act (7 of 1922), S. 390A (Mar) 88B

—S. 4 (1) (a) and (2)—Conversion of Notified Area into Municipality — Government must be satisfied that provisions of the section are fulfilled—*See* Municipalities—Bihar and Orissa Municipal Act (7 of 1922), S. 390A (Mar) 88A

—S. 4 (1) (a) — Condition to be fulfilled under—Must be referable to facts as they exist at time of declaration of intention of State Government (Mar) 88C

—S. 4 (1) (a) and (2)—Pre-conditions not fulfilled—Order null and void (Mar) 88D

—S. 5—Conversion of Notified Area into Municipality under S. 390A—Declaration of intention of State Government must be published in the locality in some manner other than publication in the official Gazette —*See* Municipalities—Bihar and Orissa

Municipalities—Bihar and Orissa Municipal Act (contd.)

Municipal Act (7 of 1922), S. 390A

(Mar) 88A

—S. 5—S. 390A is subject to provisions of Ss. 4 and 5—*See* Municipalities Bihar and Orissa Municipal Act (7 of 1922), S. 390A (Mar) 88B

—Ss. 390A, 4 (1) (a), 4 (2) and 5—Conversion of notified area into municipality under S. 390A—Government must be satisfied that provisions of Ss. 4 (1) (a), 4 (2) and 5 are fulfilled (Mar) 88A

—Ss. 390A, 4 and 5—S. 390A is subject to provisions of both Ss. 4 and 5 (Mar) 88B

—**Patna Municipal Corporation Act (13 of 1952), S. 262**—Dispute between an electricity company and local authority—S. 15 must be applied—*See* Electricity Act (1910), S. 12 (Nov) 355

Negotiable Instruments Act (26 of 1881), S. 13 — Endorsement portion of handnote below the stamp and up to date in the hands of the defendants — It is a negotiable instrument—*See* Evidence Act (1872), S. 101 (June) 215C

—S. 20 — Negotiable instrument:— What is — *See* Evidence Act (1872), S. 101 (June) 215C

—S. 46 — Property in promissory note transferred by partition—Transferee entitled to maintain the suit — His right cannot be defeated on ground of non-endorsement—*See* Civil P. C. (1908), O. 37, R. 2 (June) 215B

—S. 78—Promissory note—Transfer of by partition—Transferee entitled to maintain a suit on it though no endorsement made on it —*See* Civil P.C. (1908), O. 37, R. 2; (June) 215B

—S. 118—Presumption as to consideration —When arises — *See* Evidence Act (1872), S. 101 (June) 215C

Partition Act (4 of 1893), S. 4 — Inference of abandonment of intention to use disputed house as dwelling house is not pure question of fact and can be interfered with in second appeal if found unsupported by any evidence — Mere non-occupation of house for some time by members of family will not be sufficient indication of their abandoning the intention of keeping house as dwelling house more particularly where such house is admittedly ancestral dwelling house (Aug) 270A

—S. 4—Undivided family cannot be taken to have been used in sense of undivided coparcenery (Aug) 270B

—Ss. 4 and 8 — Civil P. C. (1908), Ss. 100-101 — Suit by vendee for partition of half share in property sold to him — Defence that suit property was dwelling house and S. 4 was applicable and defendants were

Partition Act (contd.)

ready to purchase same — Both Courts decreeing suit holding that there was abandonment of intention to use house as dwelling house — Second appeal — Contention that order refusing sale under S. 4 was not appealable — Held, contention was misconceived as appeal was not against order refusing sale, but against preliminary decree in partition suit in which that order was merged and, therefore, question whether S. 4 was applicable or not could be agitated in second appeal (Aug) 270C

—S. 8—Courts granting decree for partition and refusing permission to purchase by defendants — Second appeal — Applicability of S. 4, Partition Act (1893) cannot be agitated—See Partition Act (1893), S. 4 (Aug) 270C

Patna Municipal Corporation Act (13 of 1952)

See under Municipalities

Payment of Bonus Act (21 of 1965), Ss. 10, 11, 17 and 34—Effect of provisions — After the Act, bonus not payable as part of service condition regardless of the provisions of the Act — Annual bonus paid at different rates, held, could not be claimed as customary or traditional bonus (Oct) 349A

—Ss. 10, 11, 21, 22 and 39 — Quantum of available surplus—Dispute regarding though not an 'industrial dispute', it could be decided by the machinery under the Industrial Disputes Act (Oct) 349B

—S. 11—After coming into force of Act bonus cannot be claimed as condition of service or under custom or tradition — See Payment of Bonus Act (1965), S. 10 (Oct) 349A

—S. 11—Dispute regarding available surplus—Not industrial dispute — Yet could be decided by machinery under Industrial Disputes Act—See Payment of Bonus Act (1965), S. 10 (Oct) 349B

—S. 17—After coming into force of Act bonus cannot be claimed as condition of service or under custom or tradition — See Payment of Bonus Act (1965), S. 10 (Oct) 349A

—S. 21—Dispute regarding available surplus — Not industrial dispute — Yet could be decided by machinery under Industrial Disputes Act — See Payment of Bonus Act (1965), S. 10 (Oct) 349B

—S. 22—Dispute regarding available surplus—Not industrial dispute — Yet could be decided by machinery under Industrial Disputes Act—See Payment of Bonus Act (1965), S. 10 (Oct) 349B

—S. 34—After coming into force of Act bonus cannot be claimed as condition of service or under custom or tradition — See Payment of Bonus Act (1965), S. 10 (Oct) 349A

Payment of Bonus Act (contd.)

—S. 39—Dispute regarding available surplus — Not industrial dispute—Yet could be decided by machinery under Industrial Disputes Act—See Payment of Bonus Act (1965), S. 10 (Oct) 349B

Penal Code (45 of 1860), Ss. 21 (10) and 409—“Public servant”—(Quaere)—Whether officer-bearer of co-operative society, while discharging his duties as such, is public servant (May) 173C

—S. 77—Protection under Judicial Officer's Protection Act is not absolute but only qualified — See Judicial Officers Protection Act (1850), S. 1 (June) 194A

—S. 228—Apology by contemner—Filing of, at belated stage — Effect (Oct) 323A

—S. 228—Proceeding under—Application to quash — High Court cannot reappreciate evidence under inherent powers—See Criminal P. C. (1898), S. 561-A (Oct) 323C

—S. 228—Offence under—Cognizance can be taken on complaint by Court — Offender can also be dealt with under Ss. 480, 482, Criminal P. C. — See Criminal P. C. (1898), S. 480 (Oct) 323D

—Ss. 302/34—Common intention—Enmity between A and C—Deceased D was helping Mst. A in her cultivation—On date of occurrence when B and C were forcibly harvesting Tori crop, there was exchange of words between D and C — Later on in the day B and C came together armed concealing weapons in their clothes — They caused injuries to three prosecution witnesses and seriously assaulted D—The suddenly developed common intention to kill gathered from conduct of B and C, the weapon they used and the injuries they caused to D — Conviction of accused under Ss. 302/34, Penal Code held to be proper—However, under the circumstances sentence of death was altered to one of rigorous imprisonment for life (Dec) 411

—S. 409 — “Entrusted with property”—Loans advanced by bank to members of co-operative society—Loans realised by society to be repaid to bank — Secretary of society failing to deposit realised amounts—Secretary liable under S. 409 (May) 173A

—S. 409 — Office bearer of Co-operative Society discharging duty as such whether a ‘public servant’ (Quaere) — See Penal Code (1860), S. 21 (10) (May) 173C

Prevention of Food Adulteration Act (37 of 1954), Ss. 2 (xiii) 10, 12, 16 — ‘Sale’ includes sale for analysis to public or to Food Inspector — Sale to member of public can be only voluntary but sale to Food Inspector may be voluntary or non-voluntary—Tea vendor storing milk for tea—No evidence to show that it was kept for sale—Food In-

Prevention of Food Adulteration Act (contd.)
 spector taking sample for analysis against protest of tea vendor—Vendor accepting its price and granting receipt without any coercion—Transaction held to be sale within S. 2 (xiii) (May) 155A

—S. 10—Sale includes sale for analysis to public or to Food Inspector—See Prevention of Food Adulteration Act (1954), S. 2 (xiii) (May) 155A

—S. 12—'Sale' includes sale for analysis to public or to Food Inspector—See Prevention of Food Adulteration Act (1954), S. 2 (xiii) (May) 155A

—S. 13 (5)—Report of public analyst—Evidentiary value—Examination of public not essential unless he is called by either party—Prevention of Food Adulteration Rules (1955), R. 20—Addition of adequate quantity of preservative to sample of milk—Non-compliance—Delay of two months and a half in examination of sample—Report of Public Analyst can be relied upon as basis of conviction (May) 155B

—S. 16 (1) (a) (i), *Proviso*—Sentence—Offence of adulteration of milk by tea vendor only of technical nature—Sentence of fine of Rs. 5/- only would meet requirements of justice as offence is covered by proviso to S. 16 (1) and a sentence of imprisonment is not compulsory (May) 155C

Provincial Insolvency Act (5 of 1920), S. 42 (1) (a)—Applicability—Insolvent, in petition for order of absolute discharge taking exception provided in S. 42 (1) (a)—Onus to prove exception is on him—Absence of objection to the averment in petition—Does not make S. 42 (1) (a) inapplicable (Jan) 28

Registration Act (16 of 1908), S. 28—Registration in sub-division where two plots, included in sale-deed, situate—Plots belonged at one point of time to vendor's joint family—Absence of intention on part of vendor to defraud vendee—Mere fact that vendor's branch ceased to have interest therein after partition does not render registration invalid (June) 203A

—Ss. 47, 60 and 61 (2)—Period between date of execution and registration and date of entering copy in the register—Suit challenging transaction affecting the property during—Transaction, held not affected by *lis pendens* (Sep) 304A

—S. 50—Partition by metes and bounds—Deed—Mistake is corrected by unregistered document—Effect of on sale of his share under original deed—See Contract Act (1872), S. 62 (Mar) 110

—S. 60—Transaction between period of execution of deed and its registration and entering copy—Not affected by "*lis pen-*

Registration Act (contd.)

pendens" doctrine—See Registration Act (1908), S. 47 (Sep) 304A

—S. 61 (2)—Transaction between period of execution of deed and its registration and entering copy—Not affected by "*lis pendens*" doctrine—See Registration Act (1908), S. 47 (Sep) 304A

Retiring Gratuity Rules of Tisco Ltd., R. 6—See Industrial Disputes Act (1947), Sch. III Item 5 (Feb) 53B

—R. 7—See Industrial Disputes Act (1947), Sch. III Item 5 (Feb) 53B

—R. 10—See Industrial Disputes Act (1947), Sch. III Item 5 (Feb) 53B

SALES TAX

—Central Sales Tax Act (74 of 1956), S. 8 (1), (4)—Central Sales Tax (Bihar) Rules (1957), Rr. 9 (2) (a) and 9-B (3) (a)—Claim to be taxed at concessional rate—Filing of declaration in Form 'C' and certificates in Form 'D'—Rr. 9 (2) (a) and 9-B (3) (a) imposing rigid time-limit are ultra vires rule making power of State Government. A I R 1963 Mad 125 and AIR 1962 Mad 410, Dissented: (Feb) 42

—Central Sales Tax (Bihar) Rules 1957, R. 9 (2) (d)—Claim to be taxed at concessional rate—Filing of declaration in Form 'C' and certificates in form 'D'—Rr. 9 (2) (a) and 9-B (3) (a) imposing rigid time limit are ultra vires rule making power of State Government—See Sales Tax—Central Sales Tax Act (1956), S. 8 (1) (4) (Feb) 42

—R. 9 B (3) (a)—Claim to be taxed at concessional rate—Filing of declaration in Form 'C' and certificates in form 'D'—Rr. 9 (2) (a) and 9-B (3) (a) imposing rigid time limit are ultra vires rule making power of State Government—See Sales Tax—Central Sales Tax Act (1956), S. 8 (1) (4) (Feb) 42

SHOPS AND ESTABLISHMENTS

—Bihar Shops and Establishments Act (8 of 1954), Ss. 2 (5), 6 and 26 (5) (a)—Labour Court at the place of branch office can issue notice under S. 26 (5) (a) to the company situate beyond its local limit of jurisdiction (Nov) 371B

—S. 6—Branch office of a company registered under S. 6—Labour Court at place of branch office can issue notice under S. 26 (5) (a) to be served on company—See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 2 (5) (Nov) 371B

—S. 26—Labour Court is a Court subordinate to High Court—Order of, can be subject-matter of revision—See Civil P. C. (1908), S. 115 (Nov) 371A

—S. 26—Notice terminating service—Construction—Notice, held, was not a mere offer to terminate (Nov) 371C

Shops and Establishments—Bihar Shops and Establishments Act (contd.)

—S. 26—Provision valid—No excessive delegation of legislative authority (Nov) 371D

—S. 26—Section bars dismissal or discharge by way of punishment—“Termination of contract of employment” has got clear and definite concept (Nov) 371E

—S. 26—Bihar Shops and Establishments Rules, 1955, R. 20—Scope and applicability—Cases under Industrial Disputes Act, distinguished—(Industrial Disputes Act (1947), Ss. 10, 33 and 33A)—(Shops and Establishments—Bihar Shops and Establishments Rules (1955), R. 20) (Nov) 371F

—S. 26—High Court cannot take a different view on point of fact—See Civil P. C. (1908), S. 115 (Nov) 371G

—S. 26—Order of dismissal, if could be retrospective (Nov) 371K

—Ss. 26 (1) and 26 (5) (b)—Relief of reinstatement—Past acts of misconduct and neglect of duty could be considered (Nov) 371I

—S. 26 (1), *Proviso and R. 20*—Case not covered by—Enquiry need not be confined to grounds mentioned in order of dismissal (Nov) 371J

—S. 26 (5) (a)—Labour Court at place of branch office of a company can issue notice to company situate beyond its local limits of jurisdiction—See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 2 (5) (Nov) 371B

—S. 26 (5) (a)—Labour Court's duty to record evidence (Nov) 371H

—S. 26 (5) (b) and (a)—Relief of reinstatement—Order not to follow mechanically—An order of reinstatement without regard to the principles governing must be held to be jurisdictional error—High Court can in such a case interfere (Nov) 371L

—Bihar Shops and Establishments Rules 1955, R. 20—Domestic inquiry for misconduct—Provisions of Industrial Disputes Act, distinguished—See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 26 (Nov) 371F

—R. 20—Sub-s. (2) of S. 26 of the Act (8 of 1954) is not confined only to misconducts set out in R. 20—See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 26(1), *Proviso*: (Nov) 371J

Santhal Parganas Settlement Regulation (Reg. 3 of 1872)

See under Tenancy Laws.

Specific Relief Act (1 of 1877), S. 21 (b)—Even if a contract of employment is wrongly repudiated either by the employer or employee, Courts are unable to decree specific

Specific Relief Act (1877) (contd.)

performance of such contract—See Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954), S. 26 (5) (b) and (a) (Nov) 371L

Specific Relief Act (47 of 1963), S. 19 (b)—“In good faith and without notice of the original contract”—Held, on facts, enquiry about nature of possession of plaintiff was not necessary (Sep) 304B

Succession Act (39 of 1925), S. 214—Proof of representative title—Absence of—Objection raised for the first time at the hearing of second appeal—Held, decree could not be set aside for want of succession certificate and that plaintiff should be given opportunity to obtain succession certificate before appeal could be disposed of (Jan) 24

—S. 263, *Explanation and S. 291*—Failure of persons to whom grant has been made to furnish security bond—Revocation or annulment of grant not permissible on this ground (Jun) 183

—S. 291—Revocation or annulment of grant—Permissibility—See Succession Act (1925), S. 263, *Expln.* (Jun) 183

Telegraph Act (13 of 1885), Ss. 10 to 18—Powers under conferred on Electricity Supply Company—Dispute between the Company and local authority must be referred to arbitration—See Electricity Act (1910), S. 12 (Nov) 355

—S. 15—Dispute between electricity Company and local authority—S. 15 must be applied—See Electricity Act (1910), S. 12 (Nov) 355

—S. 19A—Powers under, conferred on electricity supply company—Dispute between company and local authority shall be referred to arbitrator—See Electricity Act (1910), S. 12 (Nov) 355

TENANCY LAWS

—Bihar Land Reforms Act (30 of 1950), S. 2 (k) and 6 (1) (c)—Khas possession—Plaintiff acquiring decree in partition suit in respect of specific portions of bakasht lands in possession of usufructuary mortgagees—Such mortgagees granting temporary lease—Plaintiff unable to obtain delivery of possession from mortgagees in spite of her paying mortgage dues and obtaining a final decree in respect of her share—Mortgage, held, ought to be deemed to be subsisting and the redemption ought to be deemed to be not complete till the plaintiff gets actual possession of the disputed land and it should be held that the plaintiff is still entitled to recover khas possession of the disputed land from the defendants under S. 6 (1) (c) of the Act (Aug) 279B

—S. 4 (d)—Scope—Suit for arrears of maintenance out of income of certain pro-

Tenancy Laws — Bihar Land Reforms Act
(*contd.*)

erty, claiming only money decree without enforcing charge on the property — Suit is not barred by S. 4 (d) (May) 162B

—S. 6 (1) (c)—Plaintiff when can recover khas possession—*See* Tenancy Laws—Bihar Land Reforms Act (30 of 1950), S. 2 (k)

(Aug) 279B

—S. 14—Applicability—Provisions do not apply to rent decree charged upon a tenure under S. 60 of Chhota Nagpur Tenancy Act — Remedy of decree-holder is not under the provisions of S. 14 (Jan) 1 (FB)

—S. 20—Principles of section not attracted to case of person in whose favour Khorposh grant is made: Decision of Misra, J. in Compensation Appeal No. 1 of 1964 (Pat), *Reversed* (Feb) 48B

—S. 24 (6) — Section does not apply to case of khorposh grant (Feb) 48C

—S. 33—Ad interim compensation—It is not compensation in lieu of property — It is interest on compensation—Ad interim compensation is income which is attachable — Muttawalli in charge of wakf property — Beneficiary having charge on income for maintenance — Property later vesting in Government—Ad interim compensation paid to Muttawalli is income attachable by the beneficiary (May) 162C

—Chhota Nagpur Tenancy Act (6 of 1908), S. 60 — Provisions of S. 14, Bihar Land Reforms Act 1950 do not apply to rent decree charged upon a tenure under the section — *See* Tenancy Laws—Bihar Land Reforms Act (30 of 1950), S. 14 (Jan) 1 (FB)

—Santhal Parganas Settlement Regulation (Reg. 3 of 1872), S. 3 — Transfer of Property Act (1882), Ss. 1, 106 and 111—Provisions of T. P. Act do not apply to Santhal Parganas — Suit for eviction under S. 11, Bihar Act 3 of 1947—Notice under S. 106, T. P. Act not necessary — Principles under S. 106 also not applicable — S. A. No. 571/1963, D/- 10-8-1964 (Pat), *Overruled* (Oct) 331

Tort—False imprisonment—Damages—Liability of Judicial Officer—Protection from—*See* Judicial Officers Protection Act (1850), S. 1 (June) 194A

—False imprisonment — Damages Assessment—General principles (June) 194B

—Malicious prosecution — Suit for damages — Essentials to be proved — Accusation against plaintiff in respect of offence which defendant claims to have seen him commit—Trial ending in acquittal on merits — Presumption will be not only that plaintiff was innocent but also that there was no reasonable and probable cause for accusation (Mar) 102A

Tort (*contd.*)

—Malicious prosecution—Malice — What constitutes (Mar) 102B

—Malicious prosecution — Suit for damages — Accusation against plaintiff by Karta of Joint Hindu family — Other member also made defendants — That accusation was made on behalf of whole family not shown — Prosecution of plaintiff must be deemed to have been made by Karta himself in his personal capacity and other members will not be liable at all (Mar) 102C

—Malicious prosecution — Suit for damages — Defendant belonging to scheduled caste and not possessed of enough properties from which claim of plaintiffs could be realised—Claim made though not exaggerated reduced to nominal sum which was held sufficient to vindicate rights of plaintiff (Mar) 102D

Transfer of Property Act (4 of 1882), S. 1 — Provisions of T. P. Act not applicable to Santhal Parganas, though it extends to the area—*See* Santhal Parganas Settlement Regulation (Reg. 3 of 1872), S. 3 (Oct) 331

—S. 52 — Transaction between period of execution of deed and its registration and entering copy — Not affected by "lis pendens" doctrine—*See* Registration Act (1908), S. 47 (Sep) 304A

—Ss. 58 and 60—Usufructuary mortgage — Sudbharna bond providing that in default of payment on due date of repayment the money covered by the bond is to be treated as consideration money for sale deed—Stipulation is a clog on equity of redemption and is void — Rights and title of parties are not changed—Relations of mortgagor and mortgagee continue, after due date, as creditor and debtor (Feb) 64A

—S. 60 — *See* Transfer of Property Act (1882), S. 58 (Feb) 64A

—S. 60—Equity of redemption—Usufructuary mortgage — Admission by mortgagor that in default of payment on due date, the mortgagee has become absolute owner — Title by adverse possession cannot be claimed — Further unless both parties are cognizant of their rights there can be no acquiescence (Feb) 64B

—S. 60 — "A" put in possession of mortgage property by mortgagee after purported redemption of usufructuary mortgage — A claiming as being in possession not only of mortgagee's right but also adverse to mortgagor — B claiming declaration of his title to and confirmation of his possession of mortgage property but his possession of property not accepted although his title to property by virtue of auction purchase accepted — Held, B being purchaser of equity of redemption of usufructuary mortgage, was en-

T. P. Act (contd.)

titled to obtain possession of mortgaged property as against A without redeeming mortgage in favour of mortgagee (May) 171

—S. 73 — Decree creating charge against property—Decree-holder has same rights as a simple mortgagee under the section — See T. P. Act (1882), S. 100 (May) 162A

—S. 76 — Grant of lease by mortgagee in possession — Mortgage deed containing stipulation that mortgagee is not entitled to settle it with others the bakasht lands for more than 12 years so as to entitle such persons to claim occupancy rights—Persons entering into settlement cannot claim occupancy rights—The duration of lease cannot be more than 12 years—Even otherwise the duration of lease cannot extend beyond the period of subsistence of mortgage (Aug) 279A

—S. 100 — Charge under S. 60, Chhota Nagpur Tenancy Act—Applicability of S. 14 of Bihar Land Reforms Act, 1950 to it — See Tenancy Laws — Bihar Land Reforms Act (30 of 1950), S. 14 (Jan) 1 (FB)

—Ss. 100, 73—Charge on property—Charge created by decree other than a compromise decree, is not charge within the meaning of S. 100 — Person getting decree for maintenance payable from income of certain property — Decree creates charge against property—Decree-holder has same right as a simple mortgagee under S. 73 (May) 162A

—S. 106—Non-service of notice under the section before action for eviction under Bihar Rent Control Act, 1947—Action premature—See Houses and Rents—Bihar Buildings (Lease, Rent and Eviction) Control Act (3 of 1947), S. 11 (1) (d) (Jan) 16C

—S. 106—Tenant not claiming adversely to landlord — Donee of landlord bringing suit for eviction—Tenant challenging gift—Not estopped from raising plea of non-service of valid notice—See Evidence Act (1872), S. 116 (Aug) 257A

—S. 106—Landlord giving notice to tenant asking him to quit and to deliver possession by end of month—Notice giving more than 15 days' time — Notice sent by registered post—Date of receipt in postal acknowledgment interpolated—Postal seal on it however showing date clearly—Tenant claiming to have received notice on much later date — Complaint clearly stating cause of action to have arisen on date of notice—Such facts

T. P. Act (contd.)

not specifically denied in written statement —Notice is in accordance with S. 106 (Aug) 257B

—S. 106—Computation of period of fifteen days—'Ending with' indicates that last day of month of tenancy will be taken in computation—So also date on which notice is received or refused will be included in computation because neither S. 106 nor any other provision has provided that fifteen days will be 'from' date of receipt of notice (Sep) 310

—S. 106—Even principles of S. 106 do not apply to suits valued below Rs. 500/- in Santhal Parganas—See Santhal Parganas Settlement Regulation (Reg. 3 of 1872), S. 3 (Oct) 331

—S. 111—Requirement of giving notice is technicle rule—Not based on justice, equity and good conscience — See Santhal Parganas Settlement Regulation (Reg. 3 of 1872), S. 3 (Oct) 331

—S. 111 (g)—Tenant not claiming adversely to landlord—Donee of landlord bringing suit for eviction — Tenant challenging gift —Not estopped from raising plea of non-service of valid notice—See Evidence Act (1872), S. 116 (Aug) 257A

Words and Phrases—"At the same time"—Meaning of — See Civil Services — Bihar Finance Service Rules (1953), R. 39 (Sep) 311

—'Discharge'—Meaning of—See Shops and Establishments — Bihar Shops and Establishments Act (8 of 1954), S. 26 (Nov) 371E

Workmen's Compensation Act (8 of 1923), S. 15—Decision of authority under S. 15 that a person is a "workman" based upon finding on nature of work done by him—It being an inference from facts, is a question of law—See Workmen's Compensation Act (1923), S. 30 (1) Proviso 1 (Nov) 366A

—Ss. 30 (1) Proviso 1 and 15—Decision of authority that a person is a "workman" based upon finding of the nature of work done by him—It being an inference from facts, is a question of law (Nov) 366A

—Sch. 2 (ii)—Person employed "otherwise than in clerical capacity" — Employee engaged as clerk but on instructions going to factory premises to verify accidents, before making report for compensation before Manager—He is not employed "otherwise than in the clerical capacity" (Nov) 366A

PATNA SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss.=Dissented from in; Not-F. = Not followed in; Over.=Overruled in;
Revers.=Reversed in.

Bihar Sugar Factories Control Act (7 of 1937)

- S. 18 (2)—AIR 1959 Pat 398—Not-F. AIR 1969 Pat 8A (Jan).
- S. 18 (2) — AIR 1959 Pat 403 — Not-F. AIR 1969 Pat 8 (Jan).
- S. 19 (2) — A I R 1959 Pat 398 — Not-F. AIR 1969 Pat 8A (Jan).
- S. 19 (2)—AIR 1959 Pat 403—Not-F. AIR 1969 Pat 8A (Jan).

Civil Procedure Code (5 of 1908)

- Pre. — AIR 1961 Pat 321—Revers. AIR 1969 S C 864 (Oct).
- S. 11 — A I R 1947 Pat 298—Over. AIR 1969 S C 971A (Nov).
- S. 38—AIR 1952 Pat 4—Diss. AIR 1969 All 551A (Nov).
- S. 47 — AIR 1940 Pat 176 — Over. AIR 1969 S C 575A (July).
- S. 47—AIR 1947 Pat 298—Over. AIR 1969 SC 971A (Nov).
- S. 96—AIR 1940 Pat 176 — Over. A I R 1969 S C 575A (July).
- S. 100 — AIR 1964 Pat 254 — Revers. AIR 1969 SC 204A (Mar).
- Ss. 100-101—1968 B L J R 374—Held no longer good law in view of AIR 1963 S C 302 as interpreted AIR 1969 Pat 128 (Apr).
- O. 9, Rr. 8 & 9—AIR 1947 Pat 298—Over. AIR 1969 S C 971A (Nov).
- O. 21, R. 10—AIR 1952 Pat 4—Diss. AIR 1969 All 551A (Nov)
- O. 21, R. 54—('62) First Appeal No. 140 of 1956 D/- 5-2-1962 (Pat)—Over. AIR 1969 Pat 299 (Sep) (FB).
- O. 21, R. 54—('62) First Appeal No. 119 of 1957 D/- 5-2-1962 (Pat)—Over. AIR 1969 Pat 299 (Sep) (FB).
- O. 22 (2)—AIR 1940 Pat 176—Over. AIR 1969 S C 575A (July).
- O. 33, R. 5—('62) First Appeal No. 140 of 1956 D/- 5-2-1962 (Pat)—Over. AIR 1969 Pat 299 (Sep) (FB).
- O. 33, R. 5—('62) First Appeal No. 119 of 1957, D/- 5-2-1962 (Pat)—Over. AIR 1969 Pat 299 (Sep) (FB).
- O. 33, R. 7—('62) First Appeal No. 140 of 1956 D/- 5-2-1962 (Pat)—Over. A I R 1969 Pat 299 (Sep) (FB).
- O. 33, R. 7—('62) First Appeal No. 119 of 1957 D/- 5-2-1962 (Pat)—Over. AIR 1969 Pat 299 (Sep) (FB).
- O. 41, R. 1.—AIR 1940 Pat 176 — Over. AIR 1969 S C 575A (July).
- O. 42, R. 1—AIR 1964 Pat 254—Revers. AIR 1969 S C 204A (Mar).

Constitution of India

- Art. 226 — (1961) 42 ITR 129 (Pat)—Diss. AIR 1969 Punj 429 (Dec).
- Criminal Procedure Code (5 of 1898)**
- S. 190—AIR 1967 Pat 416 — Diss. A I R 1969 Ker 111E (Apr).
- S. 367—('65) Cri. Appeal No. 545 of 1963 D/- 9-2-1965 (Pat)—Revers. AIR 1969 S C 53 (Jan).
- S. 488 (3)—A I R 1968 Pat 139 — Diss. A I R 1969 Goa 136 (Dec).

DEBT LAWS

Bihar Money-lenders (Regulation of Transactions) Act (7 of 1939)

- S. 4—AIR 1963 Pat 350—Over. AIR 1969 Pat 294A (Sep) (FB).

Chotanagpur Encumbered Estates Act (6 of 1876)

- S. 12A (1) (a) and 3 — ('64) Decision of Misra, J. in Compensation Appeal No. 1 of 1964 (Pat) —Revers. AIR 1969 Pat 48A (Feb).

Evidence Act (1 of 1872)

- S. 47, Expl. — AIR 1938 Pat 497 — Diss AIR 1969 All 423G (Sep).
- Ss. 101-104—AIR 1964 Pat 254—Revers. AIR 1969 S C 204B (Mar).

Income-tax Act (11 of 1922)

- S. 5 (7-C) — (1961) 42 I T R 129 (Pat)—Diss. AIR 1969 Punj 429 (Dec).
- S. 26 — (1966) ILR 45 Pat 121—Revers. AIR 1969 S C 1352A (Dec).
- S. 28—(1961) 42 I T R 129 (Pat) — Diss. AIR 1969 Punj 429 (Dec).
- S. 28 — (1966) ILR 45 Pat 121—Revers. AIR 1969 S C 1352A (Dec).
- S. 44—(1966) I L R 45 Pat 121—Revers. AIR 1969 S C 1352A (Dec).

Industrial Disputes Act (14 of 1947)

- S. 10 (2)—('64) Ref. No. 32 of 1963, D/- 25-9-1964 (Ind. Tri. Bihar) — Revers. AIR 1969 S C 306A (Mar).
- S. 15 — A I R 1932 Pat 311 — Held no longer good law. A I R 1969 Pat 53D (Feb).
- Sch. 3, Item 4—('64) Ref. No. 32 of 1963, D/- 25-9-1964 (Ind. Tri. Bihar) — Revers. AIR 1969 S C 306C (Mar).
- Sch. 3, Item 5 —AIR 1932 Pat 311 — Held no longer good law. AIR 1969 Pat 53D (Feb).

Land Acquisition Act (1 of 1894)

- S. 3 (a)—AIR 1916 Pat 330 (1)—Held no longer good law in view of AIR 1955 S C 298 as interpreted AIR 1969 All 604A (Dec).

Land Acquisition Act (*cont'd.*)

—S. 30 — A I R 1967 Pat 243—Diss. AIR 1969 Mys 313 (Oct).

Letters Patent (Mad)

—Cl. 15 — A I R 1964 Pat 76—Diss. AIR 1969 Mad 235A (June).

Limitation Act (9 of 1908)

—Art. 141 — A I R 1964 Pat 254—Revers. AIR 1969 S C 204C (Mar).

Mines and Minerals (Regulation and Development) Act (67 of 1957)

—S. 15 — A I R 1965 Pat 491—Diss. AIR 1969 Punj 79B (Mar).

Penal Code (45 of 1860)

—S. 71 — A I R 1939 Pat 388—Diss. AIR 1969 Guj 62A (Feb).

—Ss. 199, 200 — (1967) Cri. App. No. 4 of 1967, D/- 10.11.1967 (Pat) — Revers. A I R 1969 S C 7 (Jan).

—S. 279—AIR 1939 Pat 388—Diss. A I R 1969 Guj 62A (Feb).

—S. 337—AIR 1939 Pat 388—Diss. A I R 1969 Guj 62A (Feb).

Partnership Act (9 of 1932)

—S. 4—AIR 1962 Pat 25—Diss. AIR 1969 Guj 178C (June).

—S. 63—A I R 1962 Pat 25 — Diss. AIR 1969 Guj 178C (June).

—S. 69 (2) — AIR 1962 Pat 25—Diss. AIR 1969 Guj 178C (June).

Shops and Establishments—Bihar Shops and Establishments Act (8 of 1954)

—S. 26—AIR 1964 Pat 180—Over. A I R 1969 S C 992C (Nov).

TENANCY LAWS

—Bihar Land Reforms Act (30 of 1950)

—S. 3 — A I R 1963 Pat 412 (FB)—Over. AIR 1969 S C 971B (Nov).

—S. 6 — A I R 1963 Pat 412 (FB)—Over. AIR 1969 S C 971B (Nov).

—S. 14—A I R 1963 Pat 412 (FB) — Over. AIR 1969 S C 971B (Nov).

—S. 20—Decision of Misra J. in Compensation Appeal No. 1 of 1964 (Pat) — Revers. AIR 1969 Pat 48B (Feb).

—Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (12 of 1962)

—S. 16—1968 Pat L J R 384—Revers. AIR 1969 S C 244C, E (Mar).

—Sonthal Parganas Settlement Regulation (Reg. 3 of 1872)

—S. 3—S. A. No. 571 of 1963, D/- 10.8.1964 (Pat)—Over. AIR 1969 Pat 331 (Oct).

Transfer of Property Act (4 of 1882)

—S. 73 — A I R 1937 Pat 307 — Held no longer good law in view of A I R 1938 Pat 179. AIR 1969 Guj 222A (July).

PATNA CASES OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss. = Dissented From in ; Not F. = Not Followed in ; Over. = Overruled in ; Revers. = Reversed in.

AIR 1916 Pat 330 (1), Dashrath Sahu v. Secy. of State — Held no longer good law in view of A I R 1955 S C 298 AIR 1969 All 604A (Dec)

('32) AIR 1932 Pat 311 = 11 Pat 584, Secy. State v. Jamuna Das— Held no longer good law AIR 1969 Pat 53D (Feb)

('37) AIR 1937 Pat 307 = 169 Ind Cas 805, Mukhram Marwari v. Bateswar Mahton — Held no longer good law in view of AIR 1938 Pat 179 AIR 1969 Guj 222A (July)

('38) AIR 1938 Pat 497 = 40 Cri L J 27, Mahant Jagdish Das v. Emperor—Diss. AIR 1969 All 423G (Sep)

('39) AIR 1939 Pat 338 = 40 Cri L J 759, Ragho Prasad v. Emperor — Diss. AIR 1969 Guj 62A (Feb)

('40) AIR 1940 Pat 176 = 20 Pat L T 801, Bodh Narain Mahto v. Mahabir Prasad — Over. AIR 1969 S C 575A (July)

('47) AIR 1947 Pat 293 = 25 Pat 595, Ramnarain v. Basudeo—Over. A I R 1969 S C 971A (Nov)

('49) AIR 1949 Pat 222 (FB), King v. Parmanand — Broad Observation by Narayan J.—Over. AIR 1969 S C 30C (Jan)

('52) AIR 1952 Pat 4 = 30 Pat 1135, Sam Narain Singh v. Raghubans Mani Prasad — Diss. AIR 1969 All 551A (Nov)

('55) A I R 1955 Pat 404 = (1955) 27 I T R 643, Hiraluxmi v. I. T. Officer, Held impliedly Overruled by A I R 1966 S C 1068 as interpreted A I R 1969 Orissa 58 (March)

('59) AIR 1959 Pat 398, Sugauli Sugar Works v. Cane Commr. — Not F. A I R 1969 Pat 8A (Jan)

('59) AIR 1959 Pat 403 = 3S Pat 431, Sasamusa Sugar Works v. Commr.—Not F. AIR 1969 Pat 8A (Jan)

('61) AIR 1961 Pat 321 (FB), Sudhir Kumar v. Nirsi Dhobin — Revers. A I R 1969 S C 864 (Oct)

(1961) 42 I T R 129 = 40 Pat 571, Murlidhar Tejpal v. Commr. of Income-tax, Patna — Diss. AIR 1969 Punj 429 (Dec)

AIR 1962 Pat 25, Chimanlal v. Firm New India Traders — Diss. A I R 1969 Guj 178C (June)

(1962) First Appeal No. 140 of 1956 (Pat), D/- 5.2.1962, Smt. Savitri Devi v. Bank

- of Bihar — **Over.** A I R 1969 Pat 299 (FB) (Sep)
- (62) A. F. O. D. No. 300 of 1959, D/- 3-12-1962 (Pat) — **Revers.** AIR 1969 S C 297 (April)
- (1962) First Appeal No. 119 of 1957, D/- 5-2-1962 (Pat), Bank of Bihar v. Sheo Kumari Devi — **Over.** A I R 1969 Pat 299 (FB) (Sep)
- AIR 1963 Pat 350 = 1963 B L J R 361, Lakhi Narayan Sao v. Smt. Bhagwati Kuer — **Over.** AIR 1969 Pat 294A (FB) (Sep)
- (63) AIR 1963 Pat 412 = 1963 B L J R 802 (FB), Sidheshwar Prasad Singh v. Ram Saroop — **Over.** A I R 1969 S C 971B (Nov)
- (64) A I R 1964 Pat 76 = 1964 B L J R 34, Ramsarup Singh v. Muneshwar Singh — **Diss.** AIR 1969 Mad 235A (June)
- (64) AIR 1964 Pat 180 = 1964 B L J R 672, Jagadish Vastralaya v. State of Bihar — **Over.** AIR 1969 S C 992C (Nov)
- (64) A I R 1964 Pat 254, Dhankisto Mandal v. Ramkisto Mandal — **Revers.** AIR 1969 S C 204 A, B, C (March)
- (64) Ref. No. 32 of 1963, D/- 28-9-1964 (I. T. Bihar) — **Revers.** AIR 1969 S C 306A, C (April)
- (64) Decision of Misra J., in Compensation Appeal No. 1 of 1964 (Pat) — **Revers.** AIR 1969 Pat 48A, B (Feb)
- (1964) S. A. No. 571 of 1963, D/- 10-8-1964 (Pat), Satyanarayan Morarka v. Motilal — **Over.** AIR 1969 Pat 331 (Oct)
- (65) AIR 1965 Pat 491, Laddu Mal v. State of Bihar — **Diss.** A I R 1969 Punj 79B (March)
- (65) Cri. Appeal No. 545 of 1962, D/- 9-2-1965 (Pat) — **Revers.** A I R 1969 S C 53 (Jan)
- (1966) ILR 45 Pat 121, Kirkend Coal Company, Kursunda v. Commr. of I. T., Patna — **Revers.** AIR 1969 S C 1352A (Dec)
- AIR 1967 Pat 243 = 46 Pat 580, Sakalbaso Kaur v. Brijindra Singh — **Diss.** A I R 1969 Mys 313 (Oct)
- AIR 1967 Pat 416 = 1967 Cri L J 1677, Pancham Singh v. State — **Diss.** A I R 1969 Ker 111E (April)
- 1967 B L J R 537 — **Revers.** A I R 1969 S C 707B (Aug)
- (67) Cri. App. No. 4 of 1967, D/- 10-11-1967 (Pat) — **Revers.** AIR 1969 S C 7 (Jan)
- A I R 1968 Pat 139 = 1968 Cri L J 539, Subagi Devi v. Murli Pradhan — **Diss.** AIR 1969 Goa 136 (Dec)
- (68) 1968 B L J R 374 = 1968 B L J R 359, Sheikh Bashiruddin v. Dhani Mohammed — **Held no longer good law in view of** AIR 1963 S C 302 as interpreted AIR 1969 Pat 128 (April)
- 1968 Pat L J R 384, Hiralal Agrawal v. Rampadarath Singh — **Revers.** A I R 1969 S C 244C, E (March)

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years.

Owing to late receipt of other Journals the following *supplement* to comparative tables of A. I. R. = Other Journals is issued.

A. I. R. Patna = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
160	(1969) 1 Lab L J 444	41	(1969) 1 Lab L J 358	280con	39 Com Cas 635	385	1969 B L J R 239
318	1968 Serv L R 229	113	1968 Serv L R 422	289	39 Com Cas 47	394	35 F J R 71
369	(1969) 1 Lab L J 436	117	(1969) 1 Lab L J 145	300	(1969) 1 Com L J 48	445	(1969) 1 Com L J 240
381	(1969) 1 Lab L J 138	248	1969 B L J R 411	344	(1969) 1 Lab L J 664	481	40 Com Cas 17
		277	ILR 47 Pat 598	370	(1968) 2 Lab L J 811	496	ILR 47 Pat 636
		280	(1969) 1 Com L J 264		1969 B L J R 350	510	1969 B L J R 208
					ILR 47 Pat 779		1969 B L J R 74

A. I. R. 1969 Patna = Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1	[CN 1]	30	[CN 11]	54	[CN 16]	95con	71 I T R 614
FB	ILR 45 Pat 98		1969 Cri L J 239		1969 B L J R 109	97	[CN 24]
7	[CN 2] ...		1969 B L J R 338	70	[CN 17]		1969 Cri L J 434
8	[CN 3] ...	33	[CN 12]		1969 Cri L J 398	98	[CN 25] ...
11	[CN 4]		1968 B L J R 536		1969 B L J R 655	100	[CN 26] ...
	1968 Pat L J R 337	42	[CN 13]	72	[CN 18] ...	102	[CN 27]
	1968 B L J R 829		23 S T C 142	79	[CN 19] ...		1968 B L J R 441
16	[CN 5] ...	48	[CN 14]	82	[CN 20] ...	105	[CN 28]
21	[CN 6]		1968 Pat L J R 538	85	[CN 21] ...		1968 Pat L J R 380
	1968 B L J R 602		1968 B L J R 815	88	[CN 22]		1968 B L J R 902
24	[CN 7] ...		ILR 47 Pat 851		1968 Pat L J R 258		1969 Cri L J 435
25	[CN 8] ...	53	[CN 15]		1969 B L J R 17	107	[CN 29] ...
27	[CN 9] ...		1969 Lab I C 180	95	[CN 23]	110	[CN 30]
28	[CN 10] ...				ILR 47 Pat 617		1968 Pat L J R 597

Other Journals = All India Reporter

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
110con 1963 B L J R 812		184 [CN 49]		257 [CN 66]	---	331 [CN 86]	
112 [CN 31]	---	(1969) 1 Com L J 83		265 [CN 67]	---	1969 B L J R 718	
114 [CN 22]	---	1969 B L J R 334		266 [CN 68]	---	333 [CN 87]	---
118 [CN 33]		188 [CN 50]		267 [CN 69]	---	334 [CN 88]	
1969 B L J R 224		(1969) 1 Com L J 75		270 [CN 70]	---	1969 Pat L J R 80	
124 [CN 34]		1969 B L J R 328		272 [CN 71]		336 [CN 89]	---
1969 B L J R 8		192 [CN 51]		1969 B L J R 637		337 [CN 90]	---
ILR 47 Pat 832		1969 B L J R 559		279 [CN 72]	---	349 [CN 91]	---
128 [CN 35]	---	194 [CN 52]		284 [CN 73]	---	345 [CN 92]	---
131 [CN 36]	---	1968 Pat L J R 600		287 [CN 74]		1969 B L J R 210	
140 [CN 37]		1969 B L J R 1084		1969 B L J R 164		347 [CN 93]	
1968 Pat L J R 589		203 [CN 53]	---	294 [CN 75]		1969 B L J R 221	
1969 Cri L J 631		206 [CN 54]		FB 1969 Pat L J R 51		349 [CN 94]	
147 [CN 38]		1969 Pat L J R 75		1969 B L J R 121		1969 Lab I C 1860	
1969 Lab I C 569		1969 B L J R 787		299 [CN 76]		355 [CN 95]	
151 [CN 39]	---	39 Com Cas 1023		FB 1969 B L J R 128		1969 Pat R J R 142	
154 [CN 40]	---	1970 1 Com L J 71		1969 Pat L J R 70		1969 B L J R 742	
1969 B L J R 508		209 [CN 55]		304 [CN 77]	---	359 [CN 96]	
155 [CN 41]		1969 B L J R 320		307 [CN 78]	---	1969 B L J R 299	
1969 Pat L J R 15		215 [CN 56]		310 [CN 79]	---	1969 Pat L J R 132	
1969 Cri L J 636		1969 Pat L J R 28		311 [CN 80]		366 [CN 97]	
160 [CN 42]	---	ILR 47 Pat 846		1969 B L J R 293		1968 Lab I C 1365	
162 [CN 43]	---	218 [CN 57]		1969 Lab I C 1123		369 [CN 98]	
165 [CN 44]		1969 Pat L J R 82		314 [CN 81]	---	1969 Cri L J 1420	
1969 B L J R 912		1969 B L J R 1096		317 [CN 82]		1969 B L J R 510	
171 [CN 45]		228 [CN 58]	---	1969 Cri L J 1197		1969 Lab I C 1498	
1968 Pat L J R 551		233 [CN 59]	---	322 [CN 83]	---	385 [CN 100]	---
173 [CN 46]		235 [CN 60]	---	323 [CN 84]		394 [CN 101]	---
1968 Pat L J R 474		246 [CN 61]	---	1969 Pat L J R 110		411 [CN 102]	
1969 B L J R 77		248 [CN 62]	---	1969 B L J R 836		1969 Cri L J 1524	
1969 Cri L J 780		251 [CN 63]	---	1969 Cri L J 1262		415 [CN 103]	
181 [CN 47]	---	253 [CN 64]	---	329 [CN 85]	---	1969 Cri L J 1527	
183 [CN 48]		256 [CN 65]					
1969 B L J R 6		1969 B L J R 106					

Other Journals = All India Reporter

(1968) ILR 47		1969 B L J R		1969 B L J R		1969 B L J R		1968 Pat L J R	
Patna		BLJR	AIR	BLJR	AIR	BLJR	AIR	PatLJR	Other Jour.
ILR	AIR	1	1969	SC	177	338	1969	Pat	30
598	1968	6	"	Pat	183	350	1968	"	370
617	1969	8	"	"	124	358	1969	SC	313
636	1968	17	"	"	88	375	1968	SC	1509
679	"	35	1968	SC	1281	385	1969	"	474
693	"	74	1968	Pat	510	388	"	"	401
705	1969	77	1969	"	173	392	"	"	258
710	1968	90	"	SC	53	405	1970	Pat	23
779	"	97	1988	"	1466	411	1968	"	248
808	"	100	"	"	1408	426	1969	SC	316
819	"	106	1969	Pat	256	430	1968	"	1292
832	1969	109	"	"	64	437	1969	"	297
846	"	121	"	"	294	466	"	"	396
981	1968	128	"	"	299	508	"	Pat	154
951	1969	157	1968	SC	1393	510	"	"	371
		159	1969	"	7	559	"	"	192
		162	1968	SC	1273	612	"	SC	583
		164	1969	Pat	287	637	1970	Pat	89
		176	1970	"	1	655	"	"	70
		186	1969	SC	244	665	"	SC	674
		196	"	"	255	669	1968	"	1227
(1969) ILR 48		208	1968	Pat	496	690	1969	"	556
Patna		221	1969	"	347	718	"	Pat	331
(Not received)		224	"	"	118	728	"	SC	689
		239	1968	"	385	731	"	"	422
		250	1969	"	345	749	1970	"	80
		270	"	SC	204	787	1969	"	206
1968 B L J R		293	"	Pat	311	812	"	"	110
BLJR	AIR	299	"	"	359	815	"	"	48
441	1969	313	"	SC	253	821	"	SC	590
902	"	315	"	"	193	836	"	Pat	323
		320	"	Pat	209				
		328	"	"	188				
		334	"	"	184				

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[Vol. 56]

PUNJAB AND HARYANA SECTION

WITH COMPARATIVE TABLES FOR

- (1) I. L. R. PUNJAB.
- (2) CURRENT INDIAN STATUTES (IMPORTANT JUDGMENTS)
- (3) CURRENT LAW JOURNAL
- (4) PUNJAB LAW JOURNAL
- (5) PUNJAB LAW REPORTER

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PUNJAB HIGH COURT

1969

CHIEF JUSTICE :

The Hon'ble Mr. Justice Mehar Singh, Bar-at-law.

PUISNE JUDGES :

The Hon'ble Mr. Justice S. B. Kapur, i.c.s. (Retired on 14-1-69).

"	"	Harbans Singh, Bar-at-law.
"	"	Daya Krishan Mahajan, B.A., LL.B.
"	"	Jagjit Singh Bedi, Bar-at-law. Retired on 19-1-69.
"	"	Shamsher Bahadur, Bar-at-law. Retired on 15-11-69.
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"	"	R. S. Sarkaria, B.A., LL.B.
"	"	Hans Raj Sodhi, B.A., LL.M.
"	"	Gopal Singh, B.Sc., LL.B.
"	"	Bal Raj Tuli, B.A. (Hons), LL.B.

ADDITIONAL JUDGES :

The Hon'ble Mr. Justice Anand Dev Koshal, B.A., LL.B.

"	"	Surjit Singh Sandhawalia, B.A. (Hons.) LL.B.
"	"	Prem Chand Jain, B.A., LL.B.
"	"	Chandra Gupta Suri, M.A., LL.M. (From 21-8-69).
"	"	Man Mohan Singh Gujral, M.A., LL.B. (From 21-8-69).
"	"	Satish Chandra Mital, B.A., LL.B. (From 21-8-69).

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NOMINAL TABLE

Anand Kumar Nirwani v. Punjab University	(May) 144	Kartar Singh Vaid v. Union of India	(Aug) 287
Aschittar Singh v. Central Labour Court, Jullundur	(June) 187	Kundan Shadi Ram v. Union of India	(June) 193
Baldev Rai v. State of Punjab	(June) 181	Kundan Singh v. Kabul Singh	(Oct) 352 (FB)
Balwant Singh Bhagwan Singh v. Firm Raj Singh Baldev Kishen	(June) 197	Mahesh Chand v. Puran Chand	(May) 159
Banarasi Dass v. Panna Lal	(Feb) 57	Malkiat Singh v. State of Punjab	(July) 250
Basant Lal Malhotra v. State of Punjab	(June) 178	Manmohan Singh Johal v. State	(July) 225
Bhaiya Ram Hargo Lal v. Mahavir Parshad Murari Lal	(April) 110 (FB)	Manmohan Singh Tandon v. Manmohan Singh Gujral	(Sep) 331
Bishen Singh v. Chanan Kaur	(June) 200	Manohar Singh Sethi (deceased) v. State of Punjab	(Oct) 342
Chanan Singh v. State of Punjab	(April) 101	Mauji Ram Ram Rikh v. Union of India	(Oct) 365
Chhotta Singh v. Pritam Singh	(Dec) 435	Nanak Chand Lachhman Dass v. Estate Officer cum Executive Engineer, Madhopur	(Aug) 304
Daljit Singh Piara Singh v. Shamsher Kaur	(Mar) 69	National Tobacco Co. Employees Union (Regd.), Jullundur v. Manohar Singh, Presiding Officer, Labour Court, Jullundur	(Mar) 76
Dassi Dhani Ram v. Dhani Ram	(Jan) 25	Oswal Hosiery Mills, P. K. Miller-ganj, Ludhiana v. Tilak Chand L. Ghasita Ram Jain	(May) 150
Daulat Ram v. State of Punjab	(Nov) 396 (FB)	Oswal Hosiery, R. N. and Mahabir Woollen Mills, Ludhiana v. Commissioner of Income Tax, Punjab	(Jan) 8
Dhan Devi v. Bakhshi	(Aug) 270	Panchayat Deh v. Punjab Wakf Board, Ambala	(Oct) 344
Dial Singh Narain Singh v. Rajpal Jagan Nath	(Oct) 350	Prithi Raj Mehar Chand v. Hans Raj Gurditta Mal	(July) 256
Gaur, P. D. v. N. Balasundram	(Feb) 60	Prithvi Chand v. State of Punjab	(Oct) 376
Goodyear India Ltd. v. Executive Officer, Panchayat Samiti, Bal-labgarh	(Oct) 379 (FB)	Puran Chand Hari Parshad v. Mangal Nanak Saini	(Oct) 367
Goverdhan Dass v. Darshan Singh	(Oct) 372	Radha Kishan Harbans Lal, Printing and Finishing Mills v. Union of India	(Oct) 363
Grand Cinema, Mansa v. Entertainment Tax Officer	(April) 98	Radha Kishan Yad Ram v. State	(June) 204
Gupta, K. C. v. Union of India	(Feb) 34	Ram Chander v. State of Punjab	(Jan) 4
Gurdev Singh v. Mohna Ram	(Dec) 422 (FB)	Ram Dutt v. State of Haryana	(Sep) 324
Harbans Lal Nihal Chand v. Supdt. of Police, Karnal	(May) 131	Ram Kisan v. Kartar Singh	(June) 214
Harbhagwan Ram Lal v. Punjab and Pepsu Financiers Ltd.	(Oct) 340	Ram Kisan v. State of Haryana	(Apr) 104
Hardev Kaur, Smt. v. Chowdhry Jodh Singh	(Feb) 44	Ram Saran Dass Kapur v. Commissioner of Income-tax, Patiala	(Dec) 429
Hardyal Chaman Lal v. Union of India	(Sep) 329	Sadhu Singh Balwant Singh v. Smt. Jagdish Kaur Sadhu Singh	(May) 139
Haryana Co-operative Transport Ltd. Kaithal v. State of Punjab	(Mar) 66	Sain Dass v. State of Punjab	(Sep) 305
Inder Singh v. Labour Court, Jullundur	(Sep) 310	Satya Devi v. State	(Nov) 387
J. and P. Coats Ltd. Scotland v. M/s. Gurcharan Singh and Brothers, Amritsar	(Aug) 290	Savaraj Pal v. Janak Raj	(Jan) 26
Jagdish Mitter v. Union of India	(Dec) 441 (FB)	Shanker Iron and Steel Rolling Mills, Amloh v. Union of India	(Feb) 50
Jai Bhagwan v. Om Parkash	(Sep) 308	Shanti Saroop, Dr. v. State of Punjab	(Mar) 79
Joginder Singh v. Pushpa	(Nov) 397 (FB)		
Kartar Singh Sher Singh v. Har-charan Singh	(July) 244		

Sher Singh v. Vice-Chancellor, Punjab University Chandigarh	(Nov) 391	Tehal Singh v. Superintending Canal Officer, Ferozepur	(Jan) 1
Shri Laxmi Cotton Traders Pvt. Ltd. v. State of Haryana	(Jan) 12	Umrão Singh Gopi Chand v. State of Haryana	(Feb) 62
Sodhi Gurbachan Singh Koshan v. Babu Ram	(June) 201	Union of India v. Karam Singh Sahib Ditta Mal	(June) 207
State of Punjab v. V. K. Kalia	(May) 172	Union of India v. P. C. Bahl	(May) 19
Surrendra Transport & Engineer- ing Co. (Private) Ltd. v. Regi- onal Transport, Authority	(Mar) 73	Wali Ram Waryam Singh v. Smt. Mukhtiar Kaur	(Aug) 235
Suresh Kumar v. Union of India	(Aug) 257	Workmen of M/s. Bali Singh Bhagwan Singh v. Management of M/s. Bali Singh, Bhagwan Singh	(May) 147
Swaran Singh Puran Singh v. Ramditta Badhawa	(June) 216		

SUBJECT INDEX

Administration of Evacuee Property Act (31 of 1950), S. 4 (1)—Overrides S. 9, Civil P. C. —*See* Administration of Evacuee Property Act (1950), S. 46 (Oct) 365

—S. 7—Jurisdiction of Custodian — Decision if property is or is not evacuee property is necessary — *See* Administration of Evacuee Property Act (1950), S. 46 (Oct) 365

—S. 28—Section 4 read with S. 28 concludes that S. 9, Civil P. C., is overridden — *See* Administration of Evacuee Property Act (1950), S. 46 (Oct) 365

—Ss. 46, 7, 4 (1) and 28—Property declared evacuee property—Suit for declaration that it was not so and that plaintiffs were full owners, held, barred — (Civil P. C. (1908), S. 9) (Oct) 365

Arbitration Act (10 of 1940), S. 17 — Provisions of section do not override provisions of S. 11 of Court-fees Act, 1870—*See* Court-fees and Suits Valuations—Court-fees Act (1870), S. 11 (May) 159

Central Excises and Salt Act (1 of 1944), S. 37—Central Excise Rules (1944), Rr. 8 (1), 177, 178 — Exemption from excise duty to manufacturers who applied for licence prior to 13.6.62—'D' a manufacturer-licensee applying for exemption—Before he could get the order of exemption 'D' selling his manufacturing concern with good will to 'G'—'G' applying for licence and exemption as successor to 'D'—Held, under R. 178 licence is personal and is not transferable—Held further that nobody can claim exemption from liability to pay a tax or an excise duty as a matter of right—It is for the State to grant exemption in suitable cases—There is no equality either in matter of taxation or in its

Central Excises and Salt Act (contd.)
exemption—Person who sets up new units or purchased old units cannot be exempted and there is no discrimination under Art. 14 of the Constitution — The differentiation between manufacturers prior to 13.6.62 and subsequent thereto is reasonable—Constitution of India, Art. 14 (Feb) 504

Central Excise Rules (1944), R. 8(1)—Exemption from excise duty to manufacturers who applied for licence prior to 13.6.62 — It is for the State Government to grant exemption in suitable cases — *See* Central Excises and Salt Act (1944), S. 37 (Feb) 50A

—R. 96D (2)—Notification granting exemption—Processors of cotton — He can claim exemption although he is engaged in weaving silk cloth—He cannot claim exemption if he is engaged in weaving cotton cloth — Word 'cloth'—Interpretation (Oct) 363

—R. 177—Exemption from excise duty to manufacturers who applied for licence prior to 13.6.62—It is for State Government to grant exemption in suitable cases — *See* Central Excises and Salt Act (1944), S. 37 (Feb) 50A

—R. 178—Exemption from excise duty to manufacturers who have applied for licence prior to 13.6.62—It is for the State Government to grant exemption in suitable cases — *See* Central Excises and Salt Act (1944), S. 37 (Feb) 50A

Civil Procedure Code (5 of 1908), Pre.—Interpretation of Statutes—Language doubtful—Beneficent construction (June) 207B
—Pre.—Interpretation of Statutes—Retrospective operation (Aug) 257A
—Pre.—Interpretation of Statutes—Ameliorative enactment—Provision in Rent Act

Civil P. C. (contd.)

justifying ejectment of tenant—Interpretation—*See* Houses and Rents—E. P. Urban Rent Restriction Act (1949), S. 13 (3) (a) (ii) (Aug) 270J

—*Pre.*—Interpretation of Statutes—Court must endeavour to harmonise different provisions in the Act and prefer interpretation which would lead to harmonious construction rather than to lead to inconsistency (Aug) 270K

—*Pre.*—Interpretation of Statutes—Statute barring jurisdiction—Jurisdiction of Labour Court under S. 33C, Industrial Disputes Act (1947) not barred by S. 22 of Payment of Wages Act or by S. 24, Minimum Wages Act—AIR 1967 Madh Pra 155, Dissented from—Observation in AIR 1963 Bom 189, Held overruled by AIR 1964 SC 743—*See* Industrial Disputes Act (1947), S. 33C (2) (Sep) 310B

—*Pre.*—Interpretation of Statutes—Mandatory or directory provision—Distinction between—*See* Representation of the People Act (1950) (as amended by Act 47 of 1966), Ss. 16 to 23 (Oct) 352 (FB)

—*Pre.*—Interpretation of Statutes—Reference to preamble—Value and scope of preamble stated (Oct) 376C

—*Pre.*—Interpretation of Statutes—Statute of limitation—Interpretation of Art. 102—*See* Limitation Act (1908), Art. 102 (Dec) 441A (FB)

—*Pre.*—Maxims—"Actio personalis moritur cum persona"—Right to evict tenant is not personal right—It survives plaintiff and passes to his heirs—*See* Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (3) (a) (ii) (Aug) 270A

—Ss. 2 (2), 47, 96, 115 and 144—Appellate order passed on application under Ss. 47 and 144—Matter in dispute relating to execution, discharge and satisfaction of decree and between parties—Order is decree under S. 2 (2)—Appeal is competent against such order—Therefore no revision will lie under S. 115 (Sep) 308B

—S. 2 (2) (a)—"Decree" as used in Hindu Marriage Act (1955) is not equivalent to "decree" defined in S. 2 (2), Civil P. C.—*See* Hindu Marriage Act (1955), S. 23 (Mar) 69

—S. 2 (8)—Appellate authority under S. 9 of Public Premises (Eviction of Unauthorised Occupants) Act (1958) is persona designata and not "judge"—*See* Public Premises (Eviction of Unauthorised Occupants) Act (1958), S. 9 (Aug) 304A

—S. 9—Labour Court under Industrial Disputes Act—Jurisdiction under S. 33C of Act not taken away either by S. 22 of Payment of Wages Act or by S. 24 of Minimum Wages Act—*See* Industrial Disputes Act (1947), S. 33C (2) (Sep) 310B

Civil P. C. (contd.)

—S. 9—Under S. 4 (1) read with Ss. 28 and 46 of Administration of Evacuee Property Act (1950), jurisdiction of civil Court is barred—*See* Administration of Evacuee Property Act (1950), S. 46 (Oct) 365

—S. 11—Applicability to writ proceeding—*See* Constitution of India, Art. 226 (Apr) 104C

—S. 33—Term 'decree' used in the Hindu Marriage Act is not equivalent to 'decree' defined in Civil Procedure Code—*See* Hindu Marriage Act (1955), S. 23 (Mar) 69

—S. 47—Application under Ss. 47 and 144—Matter relating to execution—Order passed in appeal is a decree which is appealable—No revision under S. 115—*See* Civil P. C. (1908), S. 2 (2) (Sep) 308B

—S. 96—Appeal against order under S. 19, Hindu Marriage Act to Single Judge—Letters Patent appeal under Cl. 10 not barred—*See* Hindu Marriage Act (1955), S. 28 (Jan) 25A

—S. 96—Application under Ss. 47 and 144—Matter relating to execution—Order passed in appeal is a decree which is appealable—No revision under S. 115—*See* Civil P. C. (1908), S. 2 (2) (Sep) 308B

—S. 100—Concurrent findings of fact—Misconstruction of documents—Finding of Courts below, perverse—High Court is not debarred from reviewing it in second appeal (July) 244B

—S. 113—Appellate officer under S. 9 of Public Premises (Eviction of Unauthorised Occupants) Act (1958) is persona designata—Cannot make reference under S. 113—*See* Public Premises (Eviction of Unauthorised Occupants) Act (1958), S. 9 (Aug) 304A

—S. 115, O. 1, R. 10—Order dismissing application under O. 1, R. 10—High Court can interfere in revision if it finds some material irregularity or illegality in order (Feb) 57A

—S. 115—Point about proof of document not raised in lower Courts or even in grounds for revision—Cannot be raised at stage of revision—*See* Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 15 (5) (July) 256B

—S. 115—Application under Ss. 47 and 144—Appellate order is decree which is appealable—No revision under S. 115—*See* Civil P. C. (1908), S. 2 (2) (Sep) 308B

—S. 115—Revision—Court purporting to make order under O. 1, R. 10—Order however justified under S. 153—No interference in revision—*See* Civil P. C. (1908), S. 153 (Oct) 372B

—S. 144—Application under Ss. 47 and 144—Appellate order is decree which is

Civil P. C. (contd.)

appealable—No revision under S. 115 — See Civil P. C. (1908), S. 2 (2) (Sep) 308B

—S. 149 — Second appeal — Filing of copies of judgment insufficiently stamped — No application under S. 149 — Deficiency made up beyond limitation—Second appeal held barred by limitation — See Civil P. C. (1908), O. 41, R. 1 (Sep) 308A

—S. 151 and O. 6, R. 17 — Application for amendment—Particulars of persons referred to in application not given — Application rejected on the ground that the truth or otherwise of the allegations could not be verified (June) 187D

—S. 151—Inherent powers — When to be exercised—See Civil P. C. (5 of 1908), O. 16, R. 1 (June) 197B

—Ss. 153, 115 and O. 1, R. 10 (2) — Scope and object of S. 153 — Suit against several defendants in respect of different alienations — Defendant 4 dead on date of institution — Application by plaintiff for substituting legal representatives of defendant 4 in his place—Suit not barred by limitation against defendant 4 on such date — Court acting under O. 1, R. 10 (2) ordering substitution—Order held could be justified under S. 153 though not under O. 1, R. 10 (2) and could not be interfered with in revision (Oct) 372B

—O. 1, R. 10 — Order dismissing application under — Interference with, in revision — See Civil P. C. (5 of 1908), S. 115 (Feb) 57A

—O. 1, R. 10 — Addition of parties — A person may not be added as defendant merely because he would be incidentally affected by the judgment (Feb) 57B

—O. 1, R. 10 — Addition of party — Addition of defendant when plaintiff is opposed to such addition—Not desirable (Feb) 57C

—O. 1, R. 10 (2) — Sub-rule (2) only deals with striking out or addition of parties in a pending suit and not their substitution — Suit filed by or against a dead person cannot be treated as pending—O. 1, R. 10 (2) cannot be utilised for adding a person as plaintiff or defendant in such cases — Suit filed against several defendants in respect of different causes of action — One of defendants against whom there was separate and independent cause of action dead long before institution of suit—Legal representatives of deceased defendant cannot be added as defendants under O. 1, R. 10 (2) in place of deceased defendant (Oct) 372A

—O. 1, R. 10 (2) — Order making substitution of legal representatives — Order when not justified—See Civil P. C. (1908), S. 153 (Oct) 372B

Civil P. C. (contd.)

—O. 6, R. 2 — Dedication, presumption of — Long user has to be pleaded and proved—See Wakf Act (1954) (as amended in 1959), S. 3 (1) (Oct) 344A

—O. 6, R. 2—Pleading — Estoppel—Party pleading that defendant should make deposit of arrears of rent by a given date if he wanted exonerated — Deposit, so made — Party estopped from further action — See Evidence Act (1 of 1872), S. 115 (Oct) 367C

—O. 6, R. 17—Rejection of application for amendment — Propriety of— See Civil P. C. (1908), S. 151 (June) 187D

—O. 8, R. 5—Applicability—Rule does not apply where no written statement is filed: A I R 1936 Bom 285 and A I R 1938 Bom 470, Dissented from. (Sep) 329

—O. 13, R. 4—Endorsements on documents exhibited and admitted in evidence— Requirements—Non-compliance—Effect (July) 256

—O. 13, R. 7 — Production of document—Dasti process should not be issued to party to bring judicial record himself — See Civil P. C. (1908), O. 16, R. 1 (June) 197D

—O. 13, R. 10 — Dasti process cannot be issued to party to bring judicial record himself—See Civil P. C. (1908), O. 16 R. 1 (June) 197D

—O. 16, Rr. 1, 8 — Service of summons by Dasti process—Request by party is essential (June) 197A

—O. 16, Rr. 1, 9, S. 151 — Court's inherent power to refuse to summon witnesses—When to be exercised (June) 197B

—O. 16, R. 1—Omission to deposit process-fee due to negligence — Deposit can be allowed if that can be done without injustice to other side (June) 197C

—O. 16, R. 1 and O. 13, Rr. 7, 10 — Production of documents—Dasti-process should not be issued to party to bring judicial record himself — Private persons or parties to a litigation cannot be allowed to bring or handle judicial records in this manner (June) 197D

—O. 16, R. 8—Service of summons by dasti process—Request by party is necessary—See Civil P. C. (1908), O. 16 R. 1 (June) 197A

—O. 16, R. 9 — Court's inherent power to refuse to summon witnesses — When to be exercised — See Civil P. C. (1908), O. 16, R. 1 (June) 197B

—O. 20, R. 14 (1) (b)—Land-owner holding maximum permissible area under Punjab Security of Land Tenures Act—Suit for pre-emption not barred under S. 19-A of that Act — Bar comes into operation at the time of

Civil P. C. (contd.) — execution only. 1967-69 Pun L. R. 319, Overruled—See Tenancy Laws — Punjab Security of Land Tenures Act (10 of 1953), S. 19-A (Dec) 422 (FB)

—O. 22 — Provisions of abatement not applicable to revision petition— See Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 15 (5) (Aug) 270D

—O. 22—Plea of abatement of proceedings cannot be entertained in revision—See Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 15 (5) (Aug) 270E

—O. 22, R. 1 — Right to evict tenant survives heirs of deceased landlord plaintiff — See Houses and Rents — East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (3) (a) (ii) (Aug) 270A

—O. 22, R. 1 — Order of eviction of tenant — Tenant filing revision—Death of landlord pending revision—Right is not lost—Survives to heirs of deceased—See Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 15 (5) (Aug) 270B

—O. 22, R. 4 — Decree passed by High Court after one of the defendant's death — Decree is not a nullity on that account, it may be erroneous or contrary to law and liable to be set aside — Decree becomes nullity only when Court lacks inherent jurisdiction to try the matter — Aggrieved party can file review petition or go in Letters Patent Appeal (June) 214

—O. 22, R. 4—Abatement of appeal against one respondent — Appeal when can proceed against other respondents—Principles stated (June) 216

—O. 23, R. 1 — Bar to relief under — See Constitution of India, Art. 226 (Apr) 104C

—O. 24, R. 1—Deposit made by defendant — Interest ceases—Provision of S. 31, Punjab Relief of Indebtedness Act (7 of 1934), analogous — See Houses and Rents — East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (2), Cl. (1), Proviso (Oct) 367B

—O. 24, R. 3—When does interest cease — See Houses and Rents — East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (2), Cl. (1), Proviso (Oct) 367B

—O. 30, R. 1—Suit by partnership firm for libel or defamation of firm not maintainable — Such suit can however be brought by a partner — Form of suit indicated — See Tort — Libel or slander (May) 150A

—O. 41, R. 1 — Provisions are not applicable to appeal against decree under Hindu Marriage Act — Copy of decree need not accompany memorandum of appeal — See Hindu Marriage Act (1955), S. 23 (Mar) 69

—O. 41, R. 1 and S. 149 — Presentation of memorandum of second appeal— Certified copies of judgments of lower appellate and

Civil P. C. (contd.) — Trial Courts stamped insufficiently — Deficiency of court-fee made good beyond limitation— No application under S. 149—Second appeal held was liable to be dismissed as barred by time—(Court-fees Act (1870), S. 28) —(Limitation Act (1963), Art. 116). AIR 1933 Lah 361 (FB), Doubted in view of A I R 1958 S C 767 (Sep) 308A

—O. 41, R. 1—New plea—Plaintiff not settling up case of wakf by user — Cannot be allowed to plead wakf in second appeal— See Wakf Act (1954) (as amended in 1959), S. 3 (1) (Oct) 344A

—O. 41, R. 2—New plea—Cannot be set up in plaint — Cannot be pleaded in second appeal—See Wakf Act (1954) (as amended in 1959), S. 3 (1) (Oct) 344A

—O. 41, R. 6 (2)—Sub-rule is imperative— Application under, to stay sale of attached land in execution of money decree during pendency of appeal from the decree—Court has no option but to accept application and to order stay of sale — It can ask the applicant to furnish security for payment of the whole of the amount due under decree if it wishes to do so — Rule does not limit the ambit of security only to the amount of costs (June) 200

—O. 41, R. 27—Application for additional evidence in appeal — When allowed — The requirement must be of the Court (Aug) 290B

CIVIL SERVICES

—Civil Services (Classification, Control and Appeal) Rules (1930)—Prima facie, Rules do not apply to constables employed in Punjab Police (Obiter) (May) 131G

—Fundamental Rules, R. 52—Dismissed servant re-instated—Suit for recovery of arrears of salary—Salary only for period of three years and two months before suit can be claimed— R. 52 does not apply—ILR (1966) 1 Punj 302 and R. F. A. No. 8-D of 1964 D/- 6-9-1966 (Punj) and (1967) 1 Ser. L. R. 594 (Punj), Overruled — See Limitation Act (1903), Art. 102 (Dec) 441A (FB)

—Indian Administrative Service (Appointment by Promotion) Regulations (1955), Reg. 5 — Determination of seniority of officer — At this stage Reg. 5 (5) has no application and it is only when that provision comes into play that recording of reasons is envisaged (May) 161A

—Regn. 5 (3)—Determination of seniority of officer — At this stage Reg. 5 (3) has no application — See Constitution of India, Art. 226 (May) 161C

—Regn. 5 (5)—Supersession in process of selection—Officer junior to member of State Civil Service brought on select list whilst

Civil Services — Indian Administrative Service (Appointment by Promotion) Regulations (contd.)

his name after due consideration not considered to be fit to be so brought — Held, that was what Reg. 5 (5) meant by supersession — No State Civil Service Officer has any vested legal right to claim to be brought on select list (Point conceded) (May) 161B

— **Punjab Civil Services Rules, Vol. II, R. 4.2 — “Recruitment” and “appointment” — Distinction — Word “recruited” in R. 4.2 does not mean actual appointment — Candidate enlisted to Punjab Civil Service (Judicial Branch) prior to 11-9-1937 — Candidate however appointed as Subordinate Judge only after that date — Candidate entitled to benefit of R. 4.2 — (Constitution of India, Arts. 234 and 309, Home Gazette Notification No. 3010-G-51/1-6094 D/-26-10-1951 (Punjab)) — (High Court Rules and Orders — Punjab High Court Rules and Orders, Vol. I, Part D, Chap. 22, Rr. 6 and 7) — (Words and Phrases — “Recruitment”) — (Words and Phrases — “Appointment”) (June) 178**

— **Punjab Consolidation of Holdings State Service Class III (Executive Service) Rules, 1962, Rr. 2 (e), 3, 6 and Appendix ‘A’; Government Memoranda No. 5459-CH I (1)-65/1304 dated 29-3-1966 — Petitioner, held, ought to have been confirmed under R. 6 — Action reverting petitioner along after completion of probation period, held violated R. 6 and Art. 311 (2) of Constitution — (Constitution of India, Arts. 309 and 311 (2)) — (Industrial Disputes Act (1947), S. 2 (oo)) (Sep) 324**

— **R. 3 — Cadre to service included permanent and temporary posts — See Civil Services — Punjab Consolidation of Holdings State Service Class III (Executive Service) Rules, 1962, R. 2 (e) (Sep) 324**

— **R. 6 — When person becomes due for confirmation under the rules, explained — See Civil Services — Punjab Consolidation of Holdings State Service Class III (Executive Service) Rules, 1962, R. 2 (e) (Sep) 324**

— **Appendix ‘A’ — Cadre includes permanent as well as temporary posts — See Civil Services — Punjab Consolidation of Holdings State Service Class III (Executive Service) Rules, 1962, R. 2 (e) (Sep) 324**

— **Punjab Service Integration Rules (1957), R. 1 — Rules are in force — See Constitution of India, Art. 309 (Feb) 34B**

— **Part IV, R. 1 — O. regulation of posts — Representations against rejection by Central Government — High Court cannot sit in appeal over that decision — See Constitution of India, Art. 226 (Feb) 34F**

Constitution of India, Pre. Arts. 14, 245 — Constitutionality of Statute is presumed — One who challenges it must discharge the burden (Jan) 12E

— **Art. 5 — “Domicile” — Private International Law — Concept of domicile — Synthesis of factum and animus lies at root of concept (July) 250A**

— **Art. 5 — Domicile of origin — Is the country where parents were domiciled at time of person’s birth (July) 250B**

— **Art. 5 — Different domiciles could exist for different States of India (July) 250C**

— **Art. 5 — Nationality and domicile — Two different concepts — Private International Law, Explained (July) 250D**

— **Art. 12 — Punjab University is not “State” within Part 14 of Constitution — See Constitution of India, Art. 311 (Nov) 391A**

— **Art. 14 — Discrimination — Old Punjab State divided into Punjab, Haryana, etc. — Haryana State amending Punjab General Sales Tax Act (46 of 1948) by Punjab General Sales Tax (Haryana Amendment and Validation) Act, 14 of 1967 to operate retrospectively in its territory for period prior to formation of Haryana State — Other territories of old Punjab State not passing similar amendments — There is no violation of Art. 14 so far Haryana State is concerned, as law in Haryana is uniform (Jan) 12E**

— **Art. 14 — Constitutionality of Statute is presumed — See Constitution of India — Pre. (Jan) 12E**

— **Art. 14 — Exemption from excise duty — Differentiation between manufactures prior to 13-6-1962 and subsequently is reasonable — See Central Excises and Salt Act (1944), S. 37 (Feb) 50A**

— **Art. 14 — Equal protection of law — Reasonable classification for discrimination — Types of classifications enumerated (Feb) 50B**

— **Art. 14 — Taxation laws — Discretion of Government in selecting persons or bodies to be taxed — Only when selection operates unequally that it will violate Art. 14 (Feb) 50C**

— **Art. 14 — Two different modes of trial prescribed for some offence — Legality — See Punjab Entertainments Duty Act (16 of 1955) (as amended in 1963), S. 14-A (Apr) 98**

— **Art. 14 — Public Premises (Eviction of Unauthorized Occupants) Act (1958), S. 5 prior to introduction of S. 10-E in 1965 violative of Art. 14 — See Houses and Rents — Public Premises (Eviction of Unauthorized Occupants) Act (1958), S. 9 (Aug) 304B**

— **Art. 14 — Punjab Passengers and Goods Taxation Act (16 of 1952), Ss. 3, 2 (i) — Imposition of tax under S. 3 on “tempo” at same**

Constitution of India (contd.)

rate as on truck—No violation of equal protection of laws (Sep) 305A

—*Art. 16* — Executive instructions of Government regarding fixing of seniority amongst lower division clerks — Relevant rule should not be differently interpreted in respect of different persons similarly situated — It should apply equally to all persons similarly situated — Any other cause would result in infringement of fundamental rights guaranteed under Art. 16 (Aug) 257D

—*Art. 154* — Sanction of Government — 'Government', meaning of—Order should be in name of Governor and duly authenticated — Proof—Order can, however, be challenged on the ground that it was made by person not authorised — Consideration of Rules of Business of Government framed under Art. 166 (3)—Order made by Home Secretary without reference to Minister-in-charge of department—Order is invalid—*See Criminal P. C. (1898), S. 196-A* (July) 225B

—*Art. 162* — Punjab Service Integration Rules, 1957—Rules are valid—*See Constitution of India, Art. 309* (Feb) 34B

—*Art. 166 (3)*—Sanction of Government—'Government', meaning of—Order should be in name of Governor and duly authenticated — Proof—Order can, however, be challenged on the ground that it was made by person not authorised — Consideration of Rules of Business of Government framed under Art. 166 (3)—Order made by Home Secretary without reference to Minister-in-charge of department—Order is invalid—*See Criminal P. C. (1898), S. 196-A* (July) 225B

—*Arts. 226 and 227* — Judicial or quasi-judicial order—Interference—Northern India Canal and Drainage Act (8 of 1873), S. 30-B (3)—Revision under—Superintending Canal Officer acts judicially and his order is open to scrutiny under Arts. 226 and 227 of Constitution — His order must be a speaking order — Order dismissing revision without giving any reasons is no order in eye of law (Jan) 1

—*Art. 226*—Delay and laches—Validity of Punjab Service Integration Rules (1957) and order of Central Government passed in 1961 — (Final order against representations communicated in October 1965)—Writ petition filed soon thereafter—Petition cannot be dismissed on ground of undue delay (Feb) 34A

—*Art. 226* — Natural justice — States Reorganisation Act (1956), Ss. 115, 116 — Proceedings under — Persons making detailed representations—They are not entitled as of right to be heard orally — Central Government is not expected to act judicially—Oral hearing not asked for—No grievance of same

Constitution of India (contd.)
can be made — Principles of natural justice—held not violated (Feb) 34C

—*Art. 226* — States Reorganisation Act (1956), Ss. 114, 115, 116—Principles regarding equation of posts as determined at conference of Chief Secretaries in 1956—Equation of gazetted posts of District Panchayat Officers in Pepsu with non-gazetted posts of District Panchayat Officers in Punjab—Allegation of violation of above principles — High Court cannot interfere with decision of Government in that behalf (Feb) 34D

—*Art. 226*—Relief—States Reorganisation Act (1956), Ss. 115, 116—Joint seniority list as result of integration—Junior illegally placed above petitioner — Representations against this illegality accepted by Central Government — Necessary directions made in that behalf — Revised list not corrected — Petitioner's name directed to be kept above junior (Feb) 34E

—*Art. 226* — Certiorari — Administrative orders — Punjab Service Integration Rules (1957), Part IV, R. 11 (o)—Equation of gazetted posts of District Panchayat Officers in Pepsu with non-gazetted posts of District Panchayat Officers in Punjab — Representations of former rejected by Central Government—High Court cannot sit in appeal over that decision — Relief under Art. 226 is not open (Feb) 34F

—*Art. 226* — Office of Registrar, Pensions Appeals Tribunals is administrative and not judicial in nature—*See Industrial Disputes Act (1947), S. 7 (3) (d)* (Mar) 66A

—*Arts. 226 and 227* — Appointment of Labour Court in contravention of statutory provisions—Objection regarding validity of appointment of the person as Labour Court and consequently his award not raised before Labour Court itself — Objection can be allowed in writ petition even though the petitioner had submitted to jurisdiction of the authority — When an authority has no jurisdiction to make an order the omission by a party to raise before that authority relevant facts for deciding that question cannot clothe it with jurisdiction — Industrial Disputes Act (1947), Ss. 7, 15, 18 (Mar) 66B

—*Art. 226*—Section 9 of the Industrial Disputes Act cannot in any way affect the powers of the High Court under Art. 226 to consider validity of appointment of particular person as a Labour Court—*See Industrial Disputes Act (1947), S. 9 (1)* (Mar) 66C

—*Arts. 226 and 227* — Disputed questions of facts—High Court acting under Arts. 226, 227 is not the proper forum for deciding such questions (Mar) 79A

Constitution of India (contd.)

—*Arts. 226 and 227* — Res judicata — Suit filed for permanent injunction—Temporary injunction prayed for but not granted—Plaintiff's suit dismissed on the statement made by the plaintiff for withdrawal of the suit — Held, that the dismissal of the suit disentitled the plaintiff to claim the same relief on the same grounds in a writ petition, on general principles of res judicata and on the principles of O. 23, R. 1, Civil P. C.—Civil P. C. (1908), S. 11, O. 23, R. 1

(Apr) 104C

—*Art. 226* — Joint petition — Three petitioners similarly situated on the date of petition—Petitioners also apprehending common danger and wishing to raise identical points —Joint petition is maintainable (Apr) 104B

—*Art. 226* — Natural justice — Student caught red-handed with hand written chits —Chits containing matter relevant to subject in which student was appearing on that date — Explanation of student immediately taken by Superintendent—Standing Committee examining entire material consisting of chits, explanation of student, report of Superintendent and evidence led by student during personal hearing granted by it—Held, it could not be said that by not permitting student to cross-examine Superintendent and Deputy Superintendent principles of natural justice had been infringed or any prejudice was caused to him

(May) 144

—*Art. 226*—Indian Administrative Service (Appointment by Promotion) Regulations (1955), Regn. 5 (3)—Determination of seniority in State Civil Service List—Determination is entrusted under Regn. 5 (3) to judgment and discretion of statutory committee —Discretion exercised by committee without any mala fides — Going behind exercise of such discretion, examination of facts and adjudication thereon are precluded in writ petition

(May) 161C

—*Art. 226* — Certiorari — Other remedy open—Assessment to sales tax under S. 11 (6) of Punjab General Sales Tax Act — Remedy by revision and by reference to High Court under Ss. 21 and 22 of the Punjab General Sales Tax Act against such assessment not availed of — Writ petition against such assessment yet maintainable — (Sales Tax—Punjab General Sales Tax Act (46 of 1948), Ss. 21, 22 and 11 (6))

(June) 181A

—*Art. 226*—Writ petition—Delay in filing — Petition cannot be thrown out merely on the ground of delay

(June) 187C

—*Art. 226* — Service conditions cannot be changed retrospectively by executive fiat only—See Constitution of India, Art. 309

(Aug) 257B

Constitution of India (contd.)

—*Arts. 226, 311*—Writ petition—Administrative instructions—Misreading of—Prejudice to Government servant — High Court can grant relief. A I R 1966 Punj 443, Reversed

(Aug) 257C

—*Art. 226*—Who can apply—Punjab Ayurvedic and Unani Practitioners Act (42 of 1963), S. 3 (6) (as amended by Act 5 of 1968) — Interim Board, constituted under S. 3 (6) as introduced by 1968 Amendment Act — Such Board to have jurisdiction over Punjab State alone — Writ petition filed by Vaid of Haryana State challenging constitution of such Board — Vires of neither 1968 Amendment Act nor of notification setting up such Board questioned — Petition not maintainable — Earlier Board ceasing to function prior to appointed day — Section 72 of Punjab Reorganisation Act, not attracted — (Punjab Reorganisation Act (1966), S. 72) — (Punjab Ayurvedic and Unani Practitioners Act (42 of 1963), S. 3 (6) (as amended by Act 5 of 1968))

(Aug) 287A

—*Art. 226* — Mandamus—Issue of—Delay in disposal of representations made to Government — Absence of any statutory provision under which right to make representations is exercised — Mandamus directing Government to dispose of representations within any fixed time, cannot be issued

(Sep) 305B

—*Art. 226* — Writ — High Court cannot question subjective satisfaction of authority—See Defence of India Act (1962), S. 19(1)

(Oct) 376A

—*Art. 226* — Costs in writ proceedings — Dismissal of petition — Question of law of some complexity, being involved in petition, no order as to costs passed

(Oct) 379C (FB)

—*Art. 226* — Writ against requisitioning property under Defence of India Act, S. 40 — Opinion of appropriate authority about necessity — Not to be questioned — See Defence of India Act (1962), S. 29

(Oct) 376F

—*Art. 226* — University and its employees — Relation between, is contractual — Removal of employee — Writ petition for reinstatement—Not maintainable — AIR 1968 Cal 206, Held no longer good law in view of 1969 S C (Notes) 208=(AIR 1969 SC 1306) — See Constitution of India, Art. 311

(Nov) 391B

—*Art. 226* — Infructuous writ — Appointment of Executive Officer of municipality for fixed period — Termination before expiry of term — Writ petition dismissed — Pending appeal against dismissal, period of term of service expiring — Appeal becomes infructuous and will be dismissed—(Letters Patent (Punjab), Cl. 10)

(Nov) 396 (FB)

Constitution of India (contd.)

—*Art. 226*—Natural justice—Opportunity of being heard—Transfer of proceedings under S. 28, Income-tax Act from one Income-tax Officer to another—Latter officer has to give opportunity of being heard. (1961) 42 ITR 129 (Pat), Diss. — *See* Income-tax Act (1922), S. 28 (Dec) 429

—*Art. 226*—Writ proceedings—Consequential relief—High Court has power to order (Dec) 441B (FB)

—*Art. 227*—Judicial or quasi-judicial order—Interference—*See* Constitution of India, Art. 226 (Jan) 1

—*Art. 227*—Appointment of Labour Court in contravention of statutory provisions—Objection to appointment can be allowed in writ petition even though the petitioner had submitted to jurisdiction of the authority—*See* Constitution of India, Art. 226 (Mar) 66B

—*Art. 227*—High Court not proper forum to decide disputed question of fact under the Article—*See* Constitution of India, Art. 226 (Mar) 79A

—*Art. 227*—Res judicata—*See* Constitution of India, Art. 226 (Apr) 104C

—*Arts. 233 (1), 372 (1)*—Punjab Courts Act (6 of 1918), S. 20—S. 20 is not unconstitutional (Sep) 331A

—*Art. 233 (1)*—“In consultation with High Court”—Article does not require formal notification of appointment of District Judges to say definitely that such consultation has taken place—Mere want of factum of consultation being mentioned in notification would not invalidate appointment itself (Sep) 331B

—*Arts. 233 (1), 239 (1)*—Notification delegating functions of State Government to Administrator of Union Territory designated as Chief Commissioner—Chief Commissioner making appointment of District Judge, personally under his own signature in consultation with High Court—Appointment not invalid (Sep) 331C

—*Art. 234*—Recruitment and appointment—Distinction—*See* Civil Services—Punjab Civil Services Rules, Vol. II, R. 4.2: (June) 178

—*Art. 239 (1)*—Delegation of power to Chief Commissioner in Union Territory—Chief Commissioner appointing District Judge under his signature but in consultation with High Court—Appointment valid *See* Constitution of India, Art. 233 (1) (Sep) 331C

—*Art. 245*—Constitutionality of statute is presumed—*See* Constitution of India, Preamble (Jan) 12E

—*Art. 245*—Imposition of royalty—Nature of—*See* Mines and Minerals (Regula-

Constitution of India (contd.)

tion and Development) Act (1957), S. 15 (Mar) 79B

—*Art. 245*—States reorganization—Composite Punjab State divided—New Punjab State emerging—New State of Punjab can validate action taken earlier within its territory only—*See* Punjab Reorganisation Act (1966), S. 88 (Aug) 287B

—*Art. 245*—Delegation of powers under S. 40, Defence of India Act, is not excessive—*See* Defence of India Act (1962), S. 29 (1) (Oct) 376A

—*Art. 245*—Powers of requisitioning under S. 40, Defence of India Act (1962) delegated to collectors—Collectors act for State—*See* Defence of India Act (1962), S. 29 (1) (Oct) 376B

—*Art. 245*—Powers of requisitioning delegated by Central Government to Collectors in State—Land acquisition Collector is also a “Collector”—*See* Defence of India Act (1962), S. 29 (Oct) 376D

—*Art. 246*—State can enact law retrospectively covering period prior to its coming into existence—*See* Sales Tax—Punjab General Sales Tax (Haryana Amendment and Validation) Act (President's Act No. 14 of 1967), S. 6 (Jan) 12A

—*Art. 265*—Imposition of royalty—Nature of—It can neither be classified as tax nor fee but is more akin to rent—*See* Mines and Minerals (Regulation and Development) Act (1957), S. 15 (Mar) 79B

—*Art. 265*—Tax on profession, trade etc.—Authorities mentioned in Art. 276 can impose it at same time—*See* Constitution of India, Art. 276 (Oct) 379A (FB)

—*Arts. 276 and 265*—Tax on profession, trade, calling and employment—Authorities mentioned in Art. 276 can impose tax at the same time (Oct) 379A (FB)

—*Art. 276*—Taxes on profession, callings, trades and employments—Maximum limit of Rs. 250—Each one of the authorities mentioned in article can impose tax up to maximum limit—Word ‘or’ is used in disjunctive sense—AIR 1960 Punj 394, Overruled (Oct) 379B (FB)

—*Art. 299 (1)*—Held Central Government had power to enter into such agreement and although it was not executed in form prescribed under Art. 299 (1) was all the same binding on all parties concerned—*See* Displaced Persons (Compensation and Rehabilitation) Act (1954), S. 16 (1) (Jan) 4

—*Art. 301*—Goods imported from other States—Taxing of—Validity—*See* Sales Tax—Punjab General Sales Tax Act (46 of 1948) as amended by Haryana Amendment and Validation Act 14 of 1967, Sch. D (Jan) 12G

Constitution of India (contd.)

—*Art. 304 (a)*—Goods imported from other States—Taxing of—Validity—*See* Sales Tax—Punjab General Sales Tax Act (46 of 1948) as amended by Haryana Amendment and Validation Act 14 of 1967, Sch. D (Jan) 12G

—*Arts. 309, 162, Sch. 7, List II, Entry 41*—States Reorganisation Act (1956), Ss. 129, 115—Punjab Service Integration Rules (1957), R. 1—Rules are valid—AIR 1961 Mys 210, Diss. from (Feb) 34B

—*Art. 309*—Recruitment and appointment—Distinction—*See* Civil Services—Punjab Civil Services Rules, Vol. II, R. 4.2

(June) 178

—*Art. 309*—Service conditions of Government servants cannot be affected retrospectively by executive instructions—Whatever may be the position regarding statutory rules under Art. 309, Government has no lawful authority to prejudicially affect the civil rights of a Government servant retrospectively by a mere executive fiat otherwise than by his consent unless the Government is authorised to do so by the express provision of some valid law—Rights which have already accrued to a Government servant and the benefits which he might already have enjoyed under or by virtue of a pre-existing instruction or administrative direction cannot be taken away with retrospective effect by another executive instruction or a mere administrative direction (Aug) 257B

—*Art. 309*—Rules made under Art. 309—Punjab Consolidation of Holdings State Service Class III (Executive Service) Rules, 1962 came in force on 17-8-1962—*See* Civil Services—Punjab Consolidation of Holdings State Service Class III (Executive Service) Rules, 1962, R. 2 (e) (Sep) 324

—*Art. 311*—Reversion on account of unfitness to hold high officiating post—Order not being by way of punishment, reversion does not amount to 'reduction in rank' within meaning of Art. 311 (May) 131A

—*Art. 311*—Misreading of administrator's instructions causing prejudice—Writ petition maintainable—*See* Constitution of India, Art. 226 (Aug) 257C

—*Arts. 311, 12*—Safeguards embodied under Article 311—Benefit of, is not available to employees of Punjab University—Expression "State" appearing under Part 3 and Part 14 of Constitution—Meaning of (Nov) 391A

—*Arts. 311, 309, 226*—Punjab University Act (7 of 1947), S. 31 (2) (c)—University and its employees—Relation between is contractual—Removal of employee—Writ petition for reinstatement—Not maintainable—AIR 1968 Cal 206, Held no longer good law

Constitution of India (contd.)
in view of 1969 S C (Notes) 208—(AIR 1969 S C 1306) (Nov) 391B

—*Art. 311 (2)*—Police Rules under Police Act (1861), Ss. 7 and 12, R. 16.24 (Punjab)—Delinquent official already having requisite copies of statements of witnesses to be examined in departmental enquiry and neither disputing the fact nor asking for another set—Another set of those very copies is not required to be furnished (May) 131F

—*Art. 311 (2)*—Revision without compliance with Art. 311 (2) needs to be quashed—*See* Civil Services—Punjab Consolidation of Holdings State Service Class III (Executive Service) Rules, 1962, R. 2 (e) (Sep) 324

—*Art. 366*—Imposition of royalty—Nature of—*See* Mines and Minerals (Regulation and Development) Act (1957), S. 15 (Mar) 79B

—*Art. 372 (1)*—Effect of—Section 20 of Punjab Courts Act (6 of 1918) not unconstitutional—*See* Constitution of India, Art. 233 (1) (Sep) 331A

—*Sch. 7, List II, Entry 41*—Punjab Service Integration Rules, 1957—Rules are valid—*See* Constitution of India, Art. 309 (Feb) 34B

—*Home Gazette Notification No. 3010-G-51/1-6094 D/- 26-10-1951 (Punjab)*—Word 'recruited' in R. 4.2, Punjab Civil Service Rules, Vol. II does not mean actual appointment—*See* Civil Services—Punjab Civil Services Rules, Vol. II, R. 4.2 (June) 178

Contempt of Courts Act (32 of 1952), S. 1—*See* Tort—Damages (June) 201

—*S. 3*—Convictions by Single Judge for disobedience of orders of High Court in civil proceedings—Order is appealable—*See* Letters Patent (Lah), Cl. 10 (Feb) 60A

—*S. 3*—Conviction for contempt of High Court by Single Judge in a case initiated by private complaint—Appeal against—Parties—*See* Letters Patent (Lah), Cl. 10 (Feb) 60B

—*S. 3*—Person not let off on acceptance of apology but convicted of offence of committing contempt of Court—Appeal against conviction can be maintained (Feb) 60C

—*S. 3*—State providing counsel to its official for his defence in contempt petition or for presenting and prosecuting appeal against conviction—There is nothing objectionable if State considers that officer has not committed any contempt or his conviction is unjustified (Feb) 50D

—*S. 3*—Complainant obtaining order staying recovery of sales-tax from him—furnishing bank guarantee within two months—Order extending period of two months—Taxation Inspector not knowing about order extending period visiting complainant's office to elicit information if any extension has been granted—Knowledge of

Contempt of Courts Act (contd.) — order on part of inspector not proved — Held, there was no contempt of Court: Criminal Original No. 111 of 1967, D/- 3-1-1968 (P and H), Reversed (Feb) 60E

— S. 3 — Pepsu Tenancy and Agricultural Lands Act (13 of 1955), S. 39 — Financial Commissioner acting under S. 39 is Court subordinate to High Court (Dec) 435
Contract Act (9 of 1872), S. 124 — Editor has no legal right to get correct news for publication — It is his duty to check up or verify news supplied to him — See Tort—Damages (June) 201

— S. 125 — Editor of a newspaper has no legal right to get only correct news for publication — See Tort—Damages (June) 201

— S. 182 — Contract to deliver money by particular date — Money sent by money order two days before due date — Non-receipt of money by due date — Post Office is agent of sender and not of receiver—Held there was breach of contract—See Post Office Act (1898), S. 44 (Oct) 340

CO-OPERATIVE SOCIETIES

— Punjab Co-operative Societies Act (25 of 1961), S. 27 — Panipat Co-operative Sugar Mills Ltd. Bylaws, Bylaws 9 (b) (vii) — Interpretation of bylaw — One-third of Directors have to retire every year — Period of supersession cannot be excluded (Apr) 104A

COURT-FEES AND SUITS VALUATIONS

— Court-fees Act (7 of 1870), S. 11 — Scope — Arbitration Act (1940), S. 17 — Section 17 does not override provisions of S. 11 of Court-fees Act—Suit for dissolution of partnership and rendition of accounts—Dispute by agreement of parties referred to arbitration — Award made rule of Court by decree under S. 17—Held decree that followed was a decree in a suit, that put an end to suit, and, therefore, provisions of S. 11 of Court-fees Act, applied (May) 159

— S. 28 — Second appeal—Filing of copies of judgment insufficiently stamped—No application under S. 149, Civil P. C.—Deficiency made up beyond limitation—Second appeal held barred by limitation — See Civil P. C. (1908), O. 41, R. 1 (Sep) 303A

Criminal Procedure Code (5 of 1898), Ss. 145, 439—Findings of fact arrived at on enquiry under S. 145—When can be interfered with in revision (Apr) 101A

Criminal P. C. (contd.)

— S. 145 — Addition of parties after commencement of enquiry, but before its conclusion—Not barred — Issue of fresh order under sub-s. (1) is not necessary (Apr) 101B

— S. 196A — Conspiracy can have plurality of objects — Charge-sheet showing various objects of conspiracy including commission of offences of forging passport and fraudulently and dishonestly using them as genuine for enabling passengers to go abroad — No distinction can be made between primary and subsidiary objects—To such a case sub-s. (2) and not sub-s. (1) would apply — Trial under S. 196A is not invalid because the primary object was to send people abroad which by itself is not an offence — Penal Code (1860), Ss. 120B, 471 (July) 225A

— S. 196A — Sanction of Government — 'Government' meaning of — Order should be in name of Governor and duly authenticated — Proof—Order can, however, be challenged on the ground that it was made by person not authorised — Consideration of Rules of Business of Government framed under Art. 166 (3)—Order made by Home Secretary without reference to Minister-in-charge of department — Order is invalid—Constitution of India, Arts. 166 (3), 154 (July) 225B

— S. 233 — Charge for substantive offences read with S. 149, Penal Code — Conviction for substantive offences simpliciter or read with S. 34, Penal Code — Permissibility — See Penal Code (1860), S. 34 (June) 204

— S. 237 — Charge of conspiracy of forging passport and other travel documents — Accused acquitted of charge of forging passport — Conviction for forging other related document not illegal, when accused knew of the charge and was not prejudiced — See Criminal P. C. (1898), S. 537 (July) 225C

— S. 342 — Purpose of examination under — All possible questions not asked — Accused fully made aware of case against him—Proceedings are not vitiated (July) 225D

— S. 439 — Findings of fact arrived at on enquiry under S. 145 — Interference in revision — Permissibility — See Criminal P. C. (1898), S. 145 (Apr) 101A

— S. 465 — Scope and object—Enquiry into unsoundness of accused's mind—Duty of Judge—Non-observance of procedure—Trial is vitiated (Nov) 387

— S. 488 — Liability to maintain daughter — Provision differs from that under S. 20 of Hindu Adoptions and Maintenance Act (1956) — See Hindu Adoptions and Maintenance Act (1956), S. 20 (1) and (3) (Aug) 235A

— S. 537 — Charge for substantive offences read with S. 149, Penal Code — Conviction

Criminal P. C. (contd.)

for substantive offences simpliciter or read with S. 34, Penal Code—Permissibility—*See* Penal Code (1860), S. 34 (June) 204

—Ss. 537, 237 — Charge of conspiracy of forging passport and other travel documents — Accused acquitted of charge of forging passport — Conviction for forging other related document not illegal, when accused knew of the charge and was not prejudiced — Penal Code (1860), S. 466 (July) 225C

DEBT LAWS

— Punjab Relief of Indebtedness Act (7 of 1934), S. 31 — When does interest cease — Principle analogous to proviso to Cl. (i) of sub-s. (2) of S. 18 of East Punjab Urban Rent Restriction Act (3 of 1949) — *See* Houses and Rents — East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (2), Cl. (1), Proviso (Oct) 367B

Defence of India Act (51 of 1962), S. 29 — Power of requisitioning property delegated by Central Government to all Collectors in State — Land Acquisition Collector falls within expression "Collector" as used in the Notification delegating powers — Collector is a genus of which Land Acquisition Collector is one of species (Oct) 376D

—Ss. 29 and 44 — Power of requisitioning property—Opinion of appropriate authority — No interference in writ proceedings — (Constitution of India, Art. 226) (Oct) 376F

—Ss. 29 (1) and 40 (1) — Power of requisitioning property—Delegation of, by Central Government to all Collectors in State — Satisfaction about necessity or expediency — Allegations of mala fides not specifically raised in writ petition—Collector's opinion is final — High Court, in writ proceedings, cannot question subjective satisfaction of the appropriate authority — Notification under S. 40 held did not suffer from excessive delegation and was not invalid (Oct) 376A

—Ss. 29 (1) and 40 (1) — Power of requisitioning delegated by Central Government to all Collectors in State — Land Acquisition Collector acting as delegate of State — His order referring to satisfaction of State Government—Satisfaction of State Government held could be presumed to have been through Collector himself (Oct) 376B

—S. 29 (3) — Period for which property is being requisitioned need not be mentioned in requisition order (Oct) 376E

—S. 40 (1) — Authority of Government under S. 29 — Can be delegated to authority exercising powers under S. 40 (1) — *See*

Defence of India Act (contd.)

Defence of India Act (1962), S. 29 (1) (Oct) 376A

—S. 40 (1) — Power of requisitioning delegated to all collectors in State—Satisfaction of necessity by Collector is satisfaction of State — *See* Defence of India Act (1962), S. 29 (1) (Oct) 376E

—S. 44 — Power to requisition property — Opinion of appropriate authority — No interference in writ — *See* Defence of India Act (1962), S. 29 (Oct) 376F

Defence Services Officers Provident Fund Rules, R. 9 (viii) — Subscriber can dispose of provident fund by will — *See* Provident Funds Act (1925), S. 3 (Feb) 44

Displaced Persons (Compensation and Rehabilitation) Act (44 of 1954), S. 16 (1) — Displaced Persons (Compensation and Rehabilitation) Rules, R. 34 (d) — Financial arrangement between Central Government and State Government whereunder property in compensation pool was transferred to State Government—State Government paying stipulated price—Held, Central Government had power to enter into such agreement and although it was not executed in form prescribed under Art. 299 (1) of the Constitution was all the same binding on parties concerned—Further held that though Settlement Commissioner as delegate of Central Government could not after the said transaction pass any order under R. 92 (4) yet the rules promulgated by State Government itself justified the order passed by Settlement Commissioner as delegate of State Government—Civil Writ No. 2417 of 1965, D/- 9-8-1966, (P. & H.), Reversed (Jan) 4

Displaced Persons (Compensation and Rehabilitation) Rules (1955), Rr. 16, 18, 19, 20, 21 and Appendix VIII — Scope and interpretation — Displaced persons A and B, leaving behind urban immovable property in Pakistan—A's claim for compensation in respect of his own property as well as in respect of B's property to which he had succeeded after B's death—Assessed value of the two claims cannot be added together for purposes of payment of compensation—None of Rr. 18 to 21 applies to such cases (June) 207A

—R. 18 — Scope and interpretation — *See* Displaced Persons (Compensation and Rehabilitation) Rules (1955), R. 16 (June) 207A

—R. 19 — Scope and interpretation — *See* Displaced Persons (Compensation and Rehabilitation) Rules (1955), R. 16 (June) 207A

—R. 20 — Scope and interpretation — *See* Displaced Persons (Compensation and Rehabilitation) Rules (1955), R. 16 (June) 207A

Displaced Persons (Compensation and Rehabilitation) Rules (contd.)

—*R. 21*—Scope and interpretation — See Displaced Persons (Compensation and Rehabilitation) Rules (1955), R. 16 (June) 207A
 —*R. 34 (d)* — Financial arrangement between Central Government and State Government whereunder property in compensation pool was transferred to State Government—Validity — See Displaced Persons (Compensation and Rehabilitation) Act (1954), S. 16 (1) (Jan) 4
 —*Appendix VIII* — Scope and interpretation—See Displaced Persons (Compensation and Rehabilitation) Rules (1955), R. 16 (June) 207A

Easements Act (5 of 1882), S. 18—Customary easement—Grave-yard for Muslims—Record in Jamabandi showing land as Muslim grave-yard — No dedication or user established — Land not grave-yard by easement — See Wakf Act (1954), as amended in 1959, S. 3 (1) (Oct) 344A

EDUCATION

—**Punjab University Act (7 of 1947), S. 31 (2) (c)**—University and its employees—Relation between, is contractual. AIR 1968 Cal 206 held no longer good law in view of 1969 S C (Notes) 208 = (A I R 1969 S C 1306) — Constitution of India, Art. 311 (Nov) 391B

Evacuee Interest (Separation) Act (64 of 1951), S. 2 (d) — Mortgage by Hindu to Hindu — Equity of redemption purchased by a Muslim who subsequently became an evacuee — When mortgage is extinguished, custodian becomes the owner—See Evacuee Interest (Separation) Act (1951), S. 9 (2) (June) 193

—*Ss. 9(2), 2 (d) and 11* — Applicability of S. 9 (2)—Mortgage debt if must be incurred by evacuee himself — Mortgage by Hindu to Hindu — Equity of redemption purchased by a Muslim who later on becoming evacuee — Nature of his interest — He gets same rights in land as mortgagor had — His liability for payment becomes 'mortgage debt' within S. 2 (f) — When mortgage is extinguished Custodian becomes owner — (T. P. Act (1882), S. 60) (June) 193

—*S. 11*—Mortgage debt if must be incurred by evacuee himself — See Evacuee Interest (Separation) Act (1951), S. 9 (2) (June) 193

Evidence Act (1 of 1872), S. 1—Evidence and procedure—See Civil P. C. (1908), O. 16, R. 1 (June) 197C

—*S. 3*—Circumstantial evidence—Conviction based on — Nature of circumstantial evidence required (July) 225F

Evidence Act (contd.)

—*S. 3*—Circumstantial evidence — Existence of agreement — Partnership Act (1932), Ss. 42, 47—Contract to continue partnership after death of a partner may be implied from conduct of parties — Limitation Act (1908), Art. 106 — Two brothers A and B entering into partnership — B died on 3-11-1957 — Heirs of B continuing business till its dissolution on 5-2-1958 by mutual consent—A filing suit for rendition of accounts on 4-2-1961—A's suit held to be within time. AIR 1952 All 506 and AIR 1924 Mad 708, Diss. from (July) 244A

—*S. 4* — Presumption — Maintenance of unmarried daughter—No presumption from age and health of daughter about capacity to earn and to maintain—See Hindu Adoptions and Maintenance Act (1956), S. 20 (1), (3) (Aug) 285B

—*S. 7*—Tape-recording — Mode of proof and admissibility of—Fresh tape-recording for comparison of earlier recorded voice is admissible (Oct) 350

—*Ss. 45 and 47* — Accused charged with forgery—Conviction can be based solely on expert testimony, though as a measure of precaution the evidence should be corroborated by other evidence—Penal Code (1860), Ss. 465, 471 (July) 225E

—*S. 47*—Accused charged with forgery — Conviction can be based solely on expert testimony, though as a measure of precaution the evidence should be corroborated by other evidence—See Evidence Act (1872), S. 45 (July) 225E
 —*S. 101*—Trade mark—Infringement of—Initial burden on plaintiff — When burden shifts—See Trade Marks Act (1940), S. 21 (Aug) 290C

—*Ss. 101-104* — Petition for restitution of conjugal rights — Burden of proving the conditions in S. 9 (1) of the Hindu Marriage Act is on the petitioner — See Hindu Marriage Act (1955), S. 9 (May) 139

—*S. 114*—Presumption — Maintenance of unmarried daughter—No presumption from age and health of daughter about capacity to earn and to maintain — See Hindu Adoptions and Maintenance Act (1956), S. 20 (1) and (3) (Aug) 285B

—*S. 114*—Entries in Jamabandi presumed to be correct — However old entries merely copied in new Jamabandi not necessarily correct — See Wakf Act (1954), (as amended in 1959), S. 3 (1) (Oct) 344A

—*S. 114* — Presumption — Powers of requisitioning by State given to Collectors—Satisfaction about necessity by Collector — State presumed to be satisfied — See Defence of India Act (1962), S. 29 (1) (Oct) 376B

Evidence Act (contd.)

—S. 115—Estoppel by pleading—Approbate and reprobate—Application by landlord for eviction of tenant specifically stating that tenant should deposit certain amount of interest on arrears of rent for exonerating himself from eviction—Amount stated deposited by tenant on date of first hearing—Landlord estopped from contending that deposit falls short on proper calculation (Oct) 367C

HIGH COURT RULES AND ORDERS

—Punjab High Court Rules and Orders, Vol. I, Part D, Chap. 22, R. 6—Candidate enlisted to Punjab Civil Services (Judicial Branch) prior to 11-9-1937—Candidate however appointed as subordinate Judge only after that date—Candidate entitled to the benefit of R. 4.2 of Punjab Civil Service Rules, Vol. II—See Civil Services—Punjab Civil Services Rules, Vol. II, R. 42 (June) 178

—Vol. I, Part D, Chap. 22, R. 7—Recruitment and appointment—Distinction—See Civil Services—Punjab Civil Services Rules, Vol. II, R. 4.2 (June) 178

Hindu Adoptions and Maintenance Act (28 of 1956), S. 20 (1) and (3)—Maintenance of unmarried daughter—Parent's liability is absolute and has no relation to the age of girl—Provision under S. 488, Criminal P. C. differs—(Criminal P. C. 1898), S. 488 (Aug) 285A

—S. 20 (1) and (3)—Scope of the provisions—Ability to maintain oneself—Burden to prove lies on parent—Evidence Act (1872), Ss. 4 and 114 (Aug) 285B

Hindu Marriage Act (25 of 1955), S. 3 (b)—Courts deciding petitions under the Act—Appeal against orders of Court—Lies to Court to which appeals from decrees and orders passed in civil suits lie—See Hindu Marriage Act (1955), S. 28 (Jan) 25A

—S. 9—Petition by husband for restitution of conjugal rights—Burden of proof—Expression "without reasonable excuse"—Meaning of (May) 139

—Ss. 9, 13—Consent decree for restitution of conjugal rights—Decree is not nullity—It can form basis of divorce proceedings under S. 13 (Nov) 397 (FB)

—S. 10 (1) (a)—Term 'decree' in the Act is not equivalent to 'decree' as defined in C. P. C.—See Hindu Marriage Act (1955), S. 23 (Mar) 69

—S. 12—Term "decree" in the Act is not equivalent to 'decree' defined in C. P. C.—See Hindu Marriage Act (1955), S. 23 (Mar) 69

Hindu Marriage Act (contd.)

—S. 13—Living in adultery—Adultery is a serious charge and has to be proved beyond reasonable doubt (Jan) 25B

—S. 13—Consent decree for restitution of conjugal rights—It can form basis of divorce proceedings—See Hindu Marriage Act (1955), S. 9 (Nov) 397 (FB)

—S. 19—Order under—Appeal against to Single Judge of High Court—Further appeal under Cl. 10 of Letters Patent is maintainable—See Hindu Marriage Act (1955), S. 23 (Jan) 25A

—S. 21—Appeal against orders made on petitions under the Act—Forum—See Hindu Marriage Act (1955), S. 28 (Jan) 25A

—Ss. 23, 28, 10 (1) (a) and 12—Term 'decree' as used in the Act is not equivalent to 'decree' defined in Civil P. C.—Provisions of O. 41, R. 1, Civil P. C. are not applicable—Copy of decree need not accompany memorandum of appeal—L. P. A. 263 of 1966 D/- 1-8-66 (Punj), Reversed. E. A. O. No. 54 of 1954, D/- 20-9-56 (Punj), Overruled (Mar) 69

—Ss. 28, 3 (b), 19 and 21—Order on petition under S. 19—Appeal against, to single Judge of High Court—Further appeal under Cl. 10, Letters Patent is also maintainable and not barred by Act (Jan) 25A

—S. 28—Term 'decree' as used in the Act is not equivalent to 'decree' as defined in Civil P. C.—See Hindu Marriage Act (1955), S. 23 (Mar) 69

HOUSES AND RENTS

—East Punjab Urban Rent Restriction Act (3 of 1949), S. 2 (f)—Superstructure constructed with consent of landlord—Land retains character as rented land—See Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 18 (3) (a) (ii) (Aug) 270F

—S. 2 (f)—'Rented land'—It is land which is 'let separately'—Land on any part of which building is put up would cease to be rented land (Aug) 270L

—S. 9—Imposition or increase of house tax after Act coming into force—Increase in house rent is not automatic—Mutual agreement or notice of increase essential—Tenant not liable to pay such increase in rent when increase is not effected by landlord (Oct) 367A

—S. 13—Eviction under—Prior notice under S. 106 of T. P. Act determining contractual tenancy essential—Such notice however not essential where contractual tenancy has already been determined. A I R 1952 Punj 422, Overruled (Apr) 110 (FB)

—S. 13 (1) and (2)—T. P. Act (1882), S. 106—Notice of eviction—Monthly tenancy in Punjab—Fifteen days' notice is necessary

Houses and Rents — East Punjab Urban Rent Restriction Act (contd.)

but it need not terminate with end of month of tenancy : A I R 1933 Lah 134
Dissented from (Jan) 26

—Ss. 13 (3) (a) (ii) and 15 (5) — Right to evict tenant from rented land—It is not *actio personalis*—Heirs of deceased landlord are normally entitled to continue suit for ejectment on ground on which it was instituted and support order for eviction in revision petition during pendency of which original landlord dies. (Civil P. C. (1908), O. 22, R. 1)—(Civil P. C. (1908), Preamble—Maxims — *Actio personalis moritur cum persona*—Personal right of action dies with the person) (Aug) 270A

—Ss. 13 (3) (a) (ii) and S. 2 (f)—'Rented land'—It does not cease to be such land so as to defeat claim of landlord under S. 13 (3) (a) (ii) in spite of fact that tenant has made some super structures on land, even if construction is made with implied consent of landlord (Aug) 270F

—S. 13 (3) (a) (ii)—Eviction of tenant from rented land — Tenant could be evicted only if landlord requires rented land itself for his own business or trade and not if he wants to convert it into building : Civil P. C. No. 165 of 1960, D/- 7-4-1961 (Punj), held no longer good law in view of AIR 1967 Punj 297 (Aug) 270G

—S. 13 (3) (a) (ii) — Landlord intending to use major portion of rented land for residence and only small portion for office—He is not entitled to obtain possession of land from tenant even assuming that he is entitled to obtain possession of land for putting up a building on it before using it (Aug) 270H

—S. 13 (3) (a) (ii)—Act being ameliorative piece of legislation provision justifying ejectment of tenant must be limited within circumscribed limits of the section (Aug) 270J

—S. 13 (2), Cl. (1), proviso—Deposit of arrears of rent by defaulting tenant to absolve himself from eviction — Must include interest up to date of deposit and not merely up to date of application for eviction—1966 Cur L J 530 (Punj), Overruled (Oct) 367B

—S. 15 (5)—New plea in revision — Point about proof of execution of document marked as exhibit not raised either before the Rent Controller or before the Appellate Authority or even in grounds of revision — Cannot be entertained at stage of arguments in revision — (Civil P. C. (1908), S. 115) (July) 256B

—S. 15 (5)—Right to evict tenant survives to heirs of deceased landlord — See Houses and Rents—East Punjab Urban Rent Restriction Act (1949), S. 13 (3) (a) (ii) (Aug) 270A

Houses and Rents — East Punjab Urban Rent Restriction Act (contd.)

tion Act (3 of 1949), S. 13 (3) (a) (ii) (Aug) 270A

—S. 15 (5)—Order for eviction passed by Rent Controller and upheld by Appellate Authority does not lapse merely because of death of original landlord pending petition for revision filed by tenant in High Court—(Civil P. C. (1908), O. 22, R. 1) (Aug) 270B

—S. 15 (5) — Petition for revision—Scope — It is much narrower than that of first appeal under Act — Power of interference by Appellate Authority is much wider than revisory jurisdiction of High Court (Aug) 270C

—S. 15 (5) — Scope—Provisions of O. 22, Civil P. C. relating to abatement of actions on account of death of party — Not applicable to petitions for revision under S. 15 (5) — (Civil P. C. (1908), O. 22) (Aug) 270D

—S. 15 (5) — Revision petition filed by tenant—Plea that eviction proceedings have abated by death of successful landlord during pendency of revision — Plea cannot be entertained — (Civil P. C. (1908), O. 22) (Aug) 270E

—S. 15 (5) — Scope — New point—High Court will not normally allow new question of fact or even mixed question of law and fact particularly when it has not been taken up even in ground for revision (Aug) 270I

Income-tax Act (11 of 1922), S. 5 (7C)—Proceedings under S. 28 — Transfer of from one Income-tax officer to another — Latter officer has to give opportunity of being heard: (1963) 42 ITR 129 (Pat), Diss. — See Income-tax Act (1922), S. 28 (Dec) 429

—Ss. 28, 5 (7C) — Proceeding under S. 28 — Transfer of from one Income-tax Officer to another — Latter's failure to give opportunity of being heard—Imposition of penalty is bad — Fact that assessee is already heard by previous officer or did not specifically request for re-hearing is immaterial — (1961) 42 ITR 129 (Pat), Dissented from (Dec) 429

—S. 66 (1)—Two firms having same partners and identical shares—If the businesses are separate they can be assessed as different units: (1946) 14 ITR 272 (Bom), Diss. from (Jan) 8

Industrial Disputes Act (14 of 1947), S. 2 (oo) — Rule for retrenchment—"First come, last to go" — See Civil Services — Punjab Consolidation of Holdings State Service Class III (Executive Service) Rules, 1962, R. 2 (e) (Sep) 324

Industrial Disputes Act (contd.)

—S. 7 — Appointment of Labour Court in contravention of statutory provisions — Objection to appointment can be allowed in writ petition against its award — See Constitution of India, Art. 226 (Mar) 66B

—S. 7 (3) (d) — Registrar to Pensions Appeals Tribunal appointed as a Labour Court — Office of Registrar is administrative and not judicial in nature even if it be assumed that the Tribunal is judicial or quasi-judicial authority—Hence his appointment was void ab initio (Mar) 66A

—S. 9 (1)—Constitution of India, Art. 226 —Section 9 cannot in any way affect the powers of High Court under Art. 226 to consider the validity of appointment of a particular person as a Labour Court—Bar under S. 9 (1), however, can relate only to jurisdiction of Civil Courts (Mar) 66C

—S. 10—"Corresponding Court, Tribunal, authority or officer," in S. 93 of Punjab Reorganisation Act, 1966 — Meaning — See Punjab Reorganisation Act (1966), S. 93 (May) 147B

—S. 15 — Appointment of Labour Court in contravention of statutory provisions — Objection to appointment can be allowed in writ petition against its award — See Constitution of India, Art. 226 (Mar) 66B

—S. 18 — Award — Sastry award — Applicability to temporary employees (June) 187B

—S. 33.B — Reference of industrial dispute to Labour Court or Industrial Tribunal is a proceeding within the meaning of S. 93 (3) of Punjab Reorganisation Act, 1966—See Punjab Reorganisation Act (1966), S. 93 (May) 147A

—S. 33C (2) — Application under — Employee discharged from service can maintain application (June) 187A

—S. 33C (2) — Nature of jurisdiction of Labour Court—Factual adjudication arising out of claim on basis of existing right — It is within jurisdiction of Labour Court (Sep) 310A

—S. 33C (2) — Jurisdiction of Labour Court—Not barred either by S. 24 of Minimum Wages Act or by S. 22 of Payment of Wages Act—Bar not created by any statute cannot be implied. AIR 1967 Madh Pra 155, Dissent. from; Observations in AIR 1963 Bom 189, held overruled by AIR 1964 SC 743 (Sep) 310B

Land Acquisition Act (1 of 1894), S. 4 — Notification under mentioning that objection to acquisition could be filed within 30 days before Land Acquisition Collector — Notification held to be not bad in law—See Land Acquisition Act (1894), S. 6 (Feb) 62

Land Acquisition Act (contd.)

—S. 5A — Validity of notification under S. 6 — Cannot be challenged on ground that no opportunity for filing objections under S. 5A was given—See Land Acquisition Act (1894), S. 6 (Feb) 62

—Ss. 6, 5A, 4 and 17 (1) — Proceedings for acquisition of land — Notification under S. 4 mentioning that objection to acquisition could be filed within 30 days before Land Acquisition Collector — Notification under Ss. 6 and 17 (1) — Notification held to be not bad in law (Feb) 62

—S. 17 (1) — Notification under Ss. 6 and 17(1)—Notifications held not bad in law—See Land Acquisition Act (1894), S. 6 (Feb) 62
Letters Patent (Lahore), Cl. 10 — Order of Single Judge convicting appellant for disobedience of orders of High Court in civil proceedings — Order is appealable (Feb) 60A

—Cl. 10 — Parties — Appeal against order of Single Judge convicting a person for contempt of High Court in a case initiated on complaint made by private person and not by Court on its own motion — Court is not made respondent to such appeal (Feb) 60B

Letters Patent (Punjab), Cl. 10 — Appeal to single Judge against an order under S. 19, Hindu Marriage Act, 1955—Further Letters Patent appeal maintainable — See Hindu Marriage Act (1955), S. 28 (Jan) 25A

—Cl. 10 — Finding of fact — Binding in letters patent appeal unless strong grounds are made out for interference (Jan) 25C

—Cl. 10 — Infructuous appeal — See Constitution of India, Art. 226 (Nov) 396 (FB)

Limitation Act (9 of 1908), Arts. 22, 24, 25 and 36 — Scope and applicability — Suit for damages for slander of goods or title — Residuary Art. 36 applies and not Art. 24 or 25 — Claim in suit in substance one for damages for defamation and mental worry—Arts. 22, 24 and 25 apply—(Obiter) (May) 150B

—Art. 24—Applicability — See Limitation Act (9 of 1908), Art. 22 (May) 150B

—Art. 25 — Applicability — Suit for damages for slander of goods or title — See Limitation Act (9 of 1908), Art. 22 (May) 150B

—Art. 36—Scope and applicability — Suit for damages for slander of goods or title — See Limitation Act (9 of 1908), Art. 22 (May) 150B

—Art. 102 — Dismissal of Government servant found illegal and set aside—Servant reinstated — Suit for recovery of arrears of salary — Can claim salary only for a period of three years and two months before the suit — R. 52 of the Fundamental Rules does

Limitation Act (1908) (contd.)

not apply—ILR (1966) 1 Punj 302 & R. F. A. No. S.D of 1964, D/- 6-9-1966 (Punj) and (1967) 1 Ser L R 594 (Punj), **Overruled**; AIR 1961 Mad 486 and AIR 1963 Mad 425, Dissented from (Dec) 441A (FB)

—*Art. 106* — Partnership continuing even after death of one partner under agreement — Later partnership dissolved — Suit for rendition of account brought within three years of dissolution held was within time — *See Evidence Act (1872), S. 3* (July) 244A

—*Arts. 142 and 144* — Adverse possession against dedicated land—Suit by Wakf Board for possession of land alleged to be wakf — Board not in possession of land any time within 12 years of suit— Suit held barred — Wakf Act (1954), S. 15 (Oct) 344B

—*Art. 144* — Adverse possession against land dedicated to wakf— Wakf Board not in possession of land for over twelve years — Suit barred — *See Limitation Act (1908), Art. 142* (Oct) 344B

Limitation Act (36 of 1963), Ss. 5 and 12 — Condonation of delay — Time requisite for obtaining certified copies of judgment — Exclusion of—Burden of proof (Mar) 76

—*S. 12* — Condonation of delay — Exclusion of time—*See Limitation Act (1963), S. 5* (Mar) 76

—*Art. 116* — Second appeal — Filing of copies of judgment insufficiently stamped— No application under S. 149, Civil P. C. — Deficiency made up beyond limitation — Second appeal held barred by limitation — *See Civil P. C. (1908), O. 41, R. 1* (Sep) 308A

Mahomedan Law — Wakf — Dedication — Dedication has to be pleaded and proved — *See Wakf Act (1954) (as amended in 1959), S. 3* (1) (Oct) 344A

Master and Servant — University and its employees — Removal — Writ petition — Maintainability— *See Constitution of India, Art. 311* (Nov) 391B

Maxim — Res ipsa loquitur — Applicability — *See Motor Vehicles Act (4 of 1939), S. 110* (May) 172

Mines and Minerals (Regulation and Development) Act (67 of 1957), S. 15—Punjab Minor Mineral Concession Rules, 1964, R. 20—Imposition of royalty — Nature of — It can neither be classed as tax nor fee, but is more akin to rent — AIR 1965 Pat 491 and Civil Rule No. 433-W of 1963, D/- S-7-1964 (Cal), Dissented from—R. 20 is intra vires powers of State Legislature — *Constitution of India, Arts. 265, 366, 245* (Mar) 79B

Minimum Wages Act (11 of 1948), S. 24 — Jurisdiction of labour Court under S. 33-C, Industrial Disputes Act (1947) not barred by S. 22 of Payment of Wages Act or by

Minimum Wages Act (contd.)

S. 24, Minimum Wages Act — AIR 1967 Madh-Pra 155, Dissent. **Observation in AIR 1963 Bom 189 held Overruled in AIR 1964 S C 743**—*See Industrial Disputes Act (1947), S. 33C (2)* (Sep) 310B

Motor Vehicles Act (4 of 1939), S. 57 — Reorganisation of State of Punjab during pendency of application for extension of permit before R. T. A. Ambala—Entire route for which extension of permit sought falling under jurisdiction of R. T. A. Punjab — Absence of any provision either under the Act or Punjab Reorganization Act (1966) authorising R. T. A. Ambala to grant extension in such situation — R. T. A. Ambala is not competent to grant extension (Mar) 73A — *S. 57 (3)* — Rules framed under the Act, R. 4.6 — Notice, published under S. 57 (3), found defective in material respect — Republication with correct particulars is necessary (Mar) 73B

—*Ss. 110, 110A, 110B, 110C, 121*—Scope — Rule of absolute liability—Injuries sustained in motor accident — Claim for compensation—Negligence on part of master or his agent must be proved — Rule of res ipsa loquitur held on facts, not applicable—(Tort—Negligence)—(Maxim—Res ipsa loquitur)—(Tort—Master and Servant) (May) 172

—*S. 110A* — Scope — *See Motor Vehicles Act (4 of 1939), S. 110* (May) 172

—*S. 110B* — Scope — *See Motor Vehicles Act (4 of 1939), S. 110* (May) 172

—*S. 110C* — Scope — *See Motor Vehicles Act (4 of 1939), S. 110* (May) 172

—*S. 121* — Motor accident — Claim for compensation for injuries suffered—Negligence on part of master or servant has to be proved—Held on facts that rule of res ipsa loquitur did not apply—*See Motor Vehicles Act (4 of 1939), S. 110* (May) 172

Northern India Canal and Drainage Act (8 of 1873), S. 30B (3)—Revision under—Superintending Canal Officer acts judicially and his order is open to scrutiny under Arts. 226, 227 of the Constitution—*See Constitution of India, Art. 226* (Jan) 1

Partnership Act (9 of 1932), S. 4—Suit by partnership firm for libel or defamation of firm is not maintainable—*See Tort—Libel or slander* (May) 150A

—*S. 42*—Contract to continue partnership after death of partner — May be implied from contract of parties—*See Evidence Act (1872), S. 3* (July) 244A

—*S. 47*—Agreement to continue partnership after death of partner—Held on facts partnership continued after death of one partner till finally dissolved—*See Evidence Act (1872), S. 3* (July) 244A

Payment of Wages Act (4 of 1936), S. 22 — Jurisdiction of Labour Court under S. 33C Industrial Disputes Act (1947) not barred by S. 22 of Payment of Wages Act or by S. 24, Minimum Wages Act—AIR 1967 Madh Pra 155, Dissented — Observations in AIR 1963 Bom 189, Held overruled by AIR 1964 SC 743 — See Industrial Disputes Act (1947), S. 33C (2) (Sep) 310B

Penal Code (45 of 1860), Ss. 34, 148, 149, 323, 325 and 302—Charge for substantive offences read with S. 149—Conviction for substantive offences simpliciter or read with S. 34 — Permissibility — (Criminal P. C. (1898), Ss. 233 and 537) (June) 204

—S. 120B—Conspiracy can have plurality of objects — Charge-sheet showing various objects of conspiracy including commission of offences of forging passports and fraudulently and dishonestly using them as genuine for enabling passengers to go abroad — No distinction can be made between primary and subsidiary objects — See Criminal P. C. (1898), S. 196A (July) 225A

—S. 148—Charge for substantive offences read with S. 149—Conviction for substantive offences simpliciter or read with S. 34 — Permissibility—See Penal Code (1860), S. 34 (June) 204

—S. 149—Section constitutes a substantive offence—Not merely an enabling section to impose vicarious liability—See Penal Code (1860), S. 34 (June) 204

—S. 302—See Penal Code (1860), S. 34 (June) 204

—S. 323—See Penal Code (1860), S. 34 (June) 204

—S. 325—See Penal Code (1860), S. 34 (June) 204

—Ss. 464, 465, 466—Making false document—Making document by copying false entries from forged document—It is "making false document" (July) 225G

—S. 465—Accused charged with forgery — Conviction can be based solely on expert testimony, though as a measure of precaution the evidence should be corroborated by other evidence — See Evidence Act (1872), S. 45 (July) 225E

—S. 465—Making false document—Making document by copying false entries from forged document—It is "making false document"—See Penal Code (1860), S. 464 (July) 225G

—S. 466—Charge of conspiracy of forging passport and other travel documents — Accused acquitted of charge of forging passport — Conviction for forging other related document not illegal, when accused knew of the charge and was not prejudiced—See Criminal P. C. (1898), S. 537 (July) 225C

—S. 466—Making false document—Making

Penal Code (contd.)

document by copying false entries from forged document—It is "making false document"

—See Penal Code (1860), S. 464 (July) 225G

—S. 471—Charge-sheet showing various objects of conspiracy including commission of offences of forging passports and fraudulently and dishonestly using them as genuine for enabling passengers to go abroad — No distinction can be made between primary and subsidiary objects—Trial under is not invalid because the primary object was to send people abroad which by itself is not an offence—See Criminal P.C. (1898), S. 196A (July) 225A

—S. 471—Accused charged with forgery — Conviction can be based solely on expert testimony, though as a measure of precaution the evidence should be corroborated by other evidence — See Evidence Act (1872), S. 45 (July) 225E

—S. 499—Duty of editor of a newspaper to verify news or information supplied to him—Conviction for publishing defamatory matter—See Tort—Damages (June) 201

—S. 540—Conviction of editor for publishing defamatory matter—Duty of editor to verify news or information supplied to him—See Tort—Damages (June) 201

Persona Designata — See Civil P. C. (1908), S. 2 (8)

Police Act (5 of 1861), Ss. 7 and 12 — Rules under R. 16.3 (Punjab)—Proceedings in Criminal Court against police officer for defalcation of government money — Magistrate while acquitting official stating that "I admit that none else would have dared to sign this entry in T. A. bill but since it has not been proved" and also recording that all prosecution witnesses had resiled—Held, case was covered by clauses (a), (b) and (c) and the official could not claim protection of sub-r. (1) (May) 131B

—Ss. 7 and 12—Rules under R. 16.38 (1) (Punjab)—Criminal offence not connected with official relations of delinquent official with the public—Rule has no application (May) 131C

—Ss. 7 and 12 — Rules under, R. 16.24 (1), Cls. (ii) and (iii) (Punjab)—Police Official not admitting misconduct alleged against him—Cl. (iii) applies and not Cl. (ii) (May) 131D

—Ss. 7 and 12 — Rules under, R. 16.24 (1), Cl. (i) (Punjab) — Summary of allegations—Names of witnesses and summary of statements which those witnesses are expected to make need not be detailed in summary of allegations (May) 131E

—S. 7—Supply of requisite copies of statements of witnesses, to one who already has them—Not necessary — See Constitution of India, Art. 311 (2) (May) 131F

Police Act (contd.)

—Ss. 7 and 12 — Rules under, R. 16.24 (Punjab)—Scope—It envelopes requirements of Art. 311 of Constitution and Rule 7 of Punjab Civil Services (Punishment and Appeal) Rules, 1952 (May) 131H

—S. 12 — Proceedings in Criminal Court against police officer for defalcation of government money—Held case was covered by Cls. (a) (b) and (c) of R. 16.3 and the official could not claim protection of sub-rule (1)—See Police Act (1861), S. 7 (May) 131B

—S. 12 — Applicability of R. 16.3S (1)—Not applicable where offence is not connected with official relations of delinquent official with the public — See Police Act (1861), S. 7 (May) 131C

—S. 12—Police Official not admitting misconduct alleged against him — Cl. (iii) of R. 16.24 (1) applies and not Cl. (ii) of the said rule—See Police Act (1861), S. 7 (May) 131D

—S. 12—Rules under—Delinquent official already having copies of statements of witnesses to be examined in departmental inquiry and neither disputing the fact nor asking for another set—Another set need not be furnished to him — See Police Act (1861), S. 7 (May) 131E

—S. 12 — Set of copies of witness statements, supply to one who already has them — See Constitution of India, Art. 311 (2) (May) 131F

—S. 12 — Scope — See Police Act (1861), S. 7 (May) 131H

—Rules under, R. 16.3 (Punjab) — Held the case was covered by Cls. (a), (b) and (c) and the official could not claim the protection of sub-rule (1)—See Police Act (1861), S. 7 (May) 131B

—Rules under, R. 16.24 (Punjab) — Supply of fresh set of copies of statements of witnesses to one who already has them — Not necessary—See Constitution of India, Art. 311 (2) (May) 131F

—Rules under, R. 16.24 (1), Cls. (ii) and (iii) (Punjab)—Police official not admitting misconduct alleged against him—Cl. (iii) applies and not Cl. (ii) — See Police Act (1861), S. 7 (May) 131D

—Rules under, R. 16.24 (1) and Cl. (i), (Punjab)—Names of witnesses and summary of statements which those witnesses are expected to make need not be detailed in summary of allegations — See Police Act (1861), S. 7 (May) 131E

—Rules under, R. 16.24 (Punjab) — Scope — See Police Act (1861), S. 7 (May) 131H

—Rules under, R. 16.38 (1) (Punjab) — Applicability—See Police Act (1861), S. 7 (May) 131C

Post Office Act (6 of 1898), S. 44—Judgment-debtor under terms of compromise decree bound to send certain amount to decree-holder on 10-10-1966 sending it by money order on 8-10-1966—No specific instruction to judgment-debtor to remit amount by money order nor compromise decree stipulating to that effect — Held, it was not payment to decree-holder on 8-10-1966 (Oct):340

Provident Funds Act (19 of 1925), Ss. 3, 4 (1) (c) and 5 (as amended in 1946) — Defence Services Officers — Provident Fund Rules, R. 9 (viii)—Subscriber can dispose of provident fund by will—Subscriber appointing his parents as nominees and also making a will in favour of his father—Held though nomination in favour of parents was not valid widow of subscriber could not claim provident fund money either under S. 3 (2) or under the relevant rules when there was disposition by will in favour of father by the subscriber; A I R 1947 Cal 176 and AIR 1936 Mad 477, held no longer good law in view of amendment of Act in 1946 (Feb) 44 —S. 4 (1) (c) — Subscriber can dispose of provident fund by will — See Provident Funds Act (1925), S. 3 (Feb) 44

—S. 5 (as amended in 1946) — Subscriber can dispose of provident fund by will — See Provident Funds Act (1925), S. 3 (Feb) 44

Public Premises (Eviction of Unauthorised Occupants) Act (32 of 1958), Ss. 5 and 10-E (as inserted by Ordinance 5 of 1968) — Before introduction of S. 10-E, S. 5 was void for being violative of Art. 14 of the Constitution—Proceedings taken under S. 5 prior to introduction of S. 10-E were void — Constitution of India, Art. 14 (Aug) 304B

—S. 9—Civil P. C. (1908). Ss. 113, 2 (8)—Appellate Officer acting under S. 9 is persona designata and not Court — Reference under S. 113, Civil P. C. by such officer is incompetent (Aug) 304A

—S. 10E (as inserted by Ordinance 5 of 1968) —Prior to introduction of S. 10E, S. 5 was void—See Public Premises (Eviction of Unauthorised Occupants) Act (1958), S. 5 (Aug) 304B

Punjab Ayurvedic and Unani Practitioners Act (42 of 1963), S. 3 (6) (as amended by Act 5 of 1968)—Interim Board ceasing functioning on 1-11-66—New Board constituted for new Punjab State — New Board not inter-state body—See Constitution of India, Art. 226 (Aug) 287A

—S. 3 (6) (as amended by Act 5 of 1968) — Section 3 (6) as amended in 1968 constituted Ayurvedic and Unani Board for new Punjab State only — See Punjab Reorganisation Act (1966), S. 88 (Aug) 287B

Punjab Ayurvedic and Unani Practitioners (Amendment and Validation) Act (5 of 1966), S. 4—Section 4 does not revive board that became defunct earlier—*See* Punjab Reorganisation Act (1966), S. 53 (Aug) 287B

Punjab Courts Act (6 of 1918), S. 20—Section 20 is not unconstitutional—Difference with Art. 233 (1), Constitution not affecting validity—*See* Constitution of India, Art. 233 (1) (Sep) 331A

—S. 39—Letters Patent appeal under Cl. 10, against order in petition under S. 19, Hindu Marriage Act—Maintainable—*See* Hindu Marriage Act (1955), S. 28 (Jan) 25A

Punjab Entertainments Duty Act (16 of 1955), Ss. 14-A and 15 (as amended in 1963)—S. 14-A is ultra vires Art. 14 of Constitution—(Constitution of India, Art. 14) (Apr) 98

—S. 15 (as amended in 1963)—Two different modes of trial for same offence prescribed—Claim for benefit of a more beneficial provision—Propriety—*See* Punjab Entertainments Duty Act (16 of 1955) (as amended in 1963), S. 14-A (Apr) 98

Punjab Minor Minerals Concession Rules, 1964, R. 20—Imposition of royalty—Nature of—*See* Mines and Minerals (Regulation and Development) Act (1957), S. 15 (Mar) 79B

Punjab Passengers and Goods Taxation Act (16 of 1952), S. 2 (i)—Imposition of tax on "Tempos" equal to tax on Trucks—No violation of equal protection of law—*See* Constitution of India, Art. 14 (Sep) 305-A

—S. 3—Imposition of tax on "Tempos" equal to tax on Trucks—No violation of equal protection of law—*See* Constitution of India, Art. 14 (Sep) 305A

—S. 6 (2)—Penalty under—Assessment of tax must precede imposition of penalty—Consolidated sum also cannot be imposed (Oct) 342

Punjab Pre-emption Act (1 of 1913), S. 4—Suit for pre-emption—*See* Tenancy laws—Punjab Security of Land Tenures Act (10 of 1953), S. 19-A (Dec) 422 (FB)

—S. 15 (1) (a)—Pre-emption suit—*See* Tenancy laws—Punjab Security of Land Tenures Act (10 of 1953), S. 19-A (Dec) 422 (FB)

Punjab Reorganisation Act (31 of 1966), Ss. 88, 89—S. 88 deals with territorial extent while S. 89 deals with power of adaptation—No provision in the Act forbids passing of laws retrospectively (Jan) 12B

—S. 89—Deals with power of declaration—No provision in the Act forbids passing of laws retrospectively—*See* Punjab Reorganisation Act (31 of 1966), S. 88 (Jan) 12B

—S. 93—Proceeding—Reference of industrial dispute to Labour Court or Industrial

Punjab Reorganisation Act (contd.)

Tribunal is a proceeding within meaning of section (May) 147A

—S. 93—"Corresponding Court, Tribunal, authority or officer"—Transfer of case from Labour Court, Rohtak to Labour Court, Jullundur—Labour Court, Jullundur, is corresponding Labour Court in Rohtak by virtue of S. 10 of Industrial Disputes Act (1947) (May) 147B

—S. 72—Applicability—*See* Constitution of India, Art. 226 (Aug) 287A

—S. 72—Old Board constituted under Punjab Act (42 of 1963) defunct on 1-11-66—New Board constituted afterwards does not get inter-state character under S. 72—*See* Punjab Reorganisation Act (1966), S. 88 (Aug) 287B

—Ss. 88, 72—Applicability—Punjab Ayurvedic and Unani Practitioners (Amendment and Validation) Act (5 of 1968), S. 4—Effect of—Section held to be within competence of State Legislature (Aug) 287B

Registration of Electors Rules (1960), R. 30—Scope of—*See* Representation of the People Act (1950) (as amended by Act 47 of 1966), Ss. 16 to 23 (Oct) 352 (FB)

Representation of the People Act (43 of 1950) (as amended by Act 47 of 1966), Ss. 16 to 23, 27 and 30 (a)—Representation of the People Act (1951), Ss. 2 (e), 62 and 100 (1) (d) (iii)—Scope and interpretation—Electoral roll for Legislative Council in local authorities constituency—Omission of name of elector qualified to be registered—Application under S. 23 to Electoral Registration Officer filed before last date for nominations—Order for inclusion of his name passed after such date in contravention of mandatory provisions of S. 23 (3) is without jurisdiction and not merely illegal—Vote cast by such elector is void and vitiates election under S. 100 (1) (d) (iii) of 1951 Act—Jurisdiction of High Court to declare election void not barred by S. 30 (a)—(Per Majority; Mahajan J. Contra) (Oct) 352 (FB)

—S. 27 (as amended by Act 47 of 1966)—Electoral Registration Officer, duty of—*See* Representation of the People Act (1950) (as amended by Act 47 of 1966), Ss. 16 to 23 (FB) (Oct) 352

—S. 30 (a) (as amended by Act 47 of 1966)—Section is not applicable to High Court which alone can entertain election petition—*See* Representation of the People Act (1950) (as amended by Act 47 of 1966), Ss. 16 to 23 (FB) (Oct) 352

Representation of the People Act (43 of 1951), S. 2 (e)—Phrase "for the time being in force"—Scope of—*See* Representation of the People Act (1950) (as amended by Act 47 of 1966), Ss. 16 to 23 (FB) (Oct) 352

Representation of the People Act (contd.)

—S. 62 — Scope of — Right of voter if taken away — See Representation of the People Act (1950) (as amended by Act 47 of 1966), Ss. 16 to 23 (FB) (Oct) 352

—S. 100 (1) (d) and (iii) — Voter's name included in contravention of S. 23 (1950 Act)

—Vote by such voter vitiates election—See Representation of the People Act (1950) (as amended by Act 47 of 1966), Ss. 16 to 23

(FB) (Oct) 352

SALES TAX

—Central Sales Tax Act (74 of 1956), Pre. — Act is not *ultra vires* (1967) 20 S T C 150 (Mad), Held overruled by C. A. No. 763 of 1967, D/- 13.4.1968 (S C) (Jan) 12I

—S. 14 — See Sales Tax—Punjab General Sales Tax (Haryana Amendment and Validation) Act (President's Act No. 14 of 1967), S. 6 (Jan) 12D

—S. 15—See Sales Tax — Punjab General Sales Tax (Haryana Amendment and Validation) Act (President's Act No. 14 of 1967), S. 6 (Jan) 12D

—S. 15 — Option to reopen cases which were struck down by Supreme Court decision in AIR 1967 S C 1616 — Option is not illegal — See Sales Tax — Punjab General Sales Tax Act (46 of 1948 as amended by Haryana Amendment and Validation Act 14 of 1967), S. 11-AA (Jan) 12H

—Punjab General Sales Tax Act (46 of 1948), S. 2 (d) — 'Doctor' is a dealer within the section — See Sales Tax — Punjab General Sales Tax Act (46 of 1948), S. 4 (5) (b) (June) 181B

—Ss. 4 (5) (b), 2 (d) and 11 (6) — Assessee doctor dispensing only his own prescriptions—Gross turnover more than Rs. 10,000—Doctor is 'dealer' within the meaning of S. 2 (d) — Doctor 'manufactures or produces goods for sale' as contemplated by S. 4 (5) (b) — His assessment under S. 11 (6) correct: (1963) 14 S T C 531 (All), Dissented (June) 181B

—S. 11 (6)—Remedy of revision or reference to High Court not availed of—Writ petition against assessment yet maintainable — See Constitution of India, Art. 226 (June) 181A

—S. 11 (6) — Assessment of a Doctor dispensing only his prescriptions — Is correct — See Sales Tax — Punjab General Sales Tax Act (46 of 1948), S. 4 (5) and (b) (June) 181B

—S. 21 — Remedy under not availed of—Writ petition against assessment is yet maintainable — See Constitution of India, Art. 226 (June) 181A

—S. 22 — Remedy under not availed —

Sales Tax — Punjab General Sales Tax Act (contd.)

Writ petition against assessment still maintainable—See Constitution of India, Art. 226 (June) 181A

—Punjab General Sales Tax Act (Haryana Amendment and Validation) Act (President's Act No. 14 of 1967) — Formation of Punjab and Haryana States—Haryana State amending Punjab Act retrospectively — No discrimination or no violation of Art. 14 so far as Haryana State is concerned, as law in Haryana is uniform — See Constitution of India, Art. 14 (Jan) 12C

—S. 6 — Act amending Punjab General Sales Tax Act (46 of 1948), has retrospective effect in territory comprising Haryana State prior to its existence and is not *ultra vires* — Constitution of India, Art. 246 — State can enact law retrospectively covering period prior to coming into existence (Jan) 12A

—S. 6—Central Sales Tax Act (74 of 1956), Ss. 14 and 15 — Old Punjab State divided into Punjab Haryana etc. — Haryana State amending Punjab General Sales Tax Act (46 of 1948) retrospectively — Amendment has the effect of taxing "declared goods" twice—If any person is taxed twice he can get a relief but it does not make the amending Act bad — It is only second levy that is bad (*Obiter*) (Jan) 12D

—S. 6 — Defect in parent Act 46 of 1948 pointed out by Supreme Court is removed by Haryana Amendment and Validation Act, 14 of 1967 — It is impossible to make law that can cover all conceivable possibilities—If there is double levy the second levy is void but not the law (Jan) 12F

—S. 11-AA—Central Sales Tax Act (74 of 1956), S. 15 — Option given to assessee to reopen cases which were struck down by Supreme Court decision (Jan) 12H

—Sch. 1—Constitution of India, Arts. 301 and 304 (a) — Cotton imported in Haryana taxed at stage of first sale—Cotton purchased in State taxed at stage of first purchase — There is no discrimination in the levy on imported cotton and cotton produced in State (Jan) 12G

States Reorganisation Act (37 of 1956), S. 114 — Equation of posts — Decision of Government — Interference with by High Court — See Constitution of India, Art. 226 (Feb) 34D

—S. 115 — Punjab Service Integration Rules (1957) — Rules are valid — See Constitution of India, Art. 309 (Feb) 34B

—S. 115 — Proceedings under — Persons making detailed representations — They are

States Reorganisation Act (contd.)

not as of right entitled to be heard orally —
See Constitution of India, Art. 226

(Feb) 34C

—S. 115 — Equation of posts — Decision of Govt.—Interference by High Court — *See* Constitution of India, Art. 226 (Feb) 34D

—S. 115 — Joint Seniority List as result of integration — Illegality in — Interference by High Court — *See* Constitution of India, Art. 226 (Feb) 34E

—S. 116 — Proceedings under — Persons making detailed representations — They are not entitled as of right to be heard orally — *See* Constitution of India, Art. 226 (Feb) 34C

—S. 116 — Decision regarding equation of posts — Interference with by High Court — *See* Constitution of India, Art. 226 (Feb) 34D

—S. 116 — Joint Seniority List as result of integration — Illegality in — Interference by High Court — *See* Constitution of India, Art. 226 (Feb) 34E

—S. 129 — Punjab Service Integration Rules, 1957, are valid — *See* Constitution of India, Art. 309 (Feb) 34B

TENANCY LAWS

—Pepsu Tenancy and Agricultural Lands Act (18 of 1955), S. 39—Financial Commissioner acting under—Is Court subordinate to High Court for purposes of S. 3, Contempt of Courts Act — *See* Contempt of Courts Act (52 of 1952), S. 3 (Dec) 435

—Punjab Security of Land Tenures Act (10 of 1953), S. 19-A—Does not bar pre-emption suit by landlord holding maximum permissible area. (1967-69 Pun L R 319, **Overruled**) (Dec) 422 (FB)

—Punjab Tenancy Act (16 of 1887), S. 84 (5) — Specific provision for giving a hearing to party — Effect — *See* Contempt of Courts Act (32 of 1952), S. 3 (Dec) 435

—Punjab Village Common Lands (Regulation Amendment) Act (19 of 1964), S. 3 — Land recorded as "Shamil Deh" prior to coming into force of Act — Land vests in Panchayat — *See* Wakf Act (1954) (as amended in 1959), S. 3 (1) (Oct) 344A

Tort—Damages — Duty of newspaper editor to verify news or information supplied to him — Editor convicted for publishing defamatory matter—Suit by editor for damages against supplier for supplying wrong information resulting in conviction for defamation — Not maintainable, unless there was contract to indemnify editor — Editor has no legal right to get only correct news for publication (June) 201

Tort (contd.)

—Defamation—Damages—Suit by Editor for damages against supplier for supplying him wrong information resulting in conviction for defamation—Not maintainable—*See* Tort—Damages (June) 201

—Libel or slander — Action for—Suit by partnership firm for libel or defamation of firm not maintainable — Such suit can however be brought by its partners — Form of suit indicated — (Civil P. C. (1908), O. 30, R. 1) — (Partnership Act (1932), S. 4) (May) 150A

—Master and Servant — Rule of absolute liability—Held on facts that rule of *res ipsa loquitur* did not apply — *See* Motor Vehicles Act (4 of 1939), S. 110 (May) 172

—Negligence — Proof—Motor accident — Claim for compensation for injuries—Negligence on part of master or servant must be proved—*See* Motor Vehicles Act (4 of 1939), S. 110 (May) 172

—Slander of goods and slander of title — Distinction (May) 150C

Trade Marks Act (5 of 1940), S. 21—Infringement of trade mark — Proof of — Mode of (Aug) 290A

—S. 21 — Infringement of trade mark — Action for — Burden of proof — (Evidence Act (1872), Section 101) (Aug) 290C

—S. 21 — Infringement of trade mark — Proof of — Confusion in trade caused by defendant's mark — How determined—Held on facts that there was no infringement of plaintiff's trade marks (Aug) 290D

Transfer of Property Act (4 of 1882), S. 60 — Mortgage debt if must be incurred by evacuee himself — Mortgage by a Hindu to Hindu — Equity of redemption purchased by Muslim who later on became evacuee — When mortgage is extinguished, Custodian becomes the owner — *See* Evacuee Interest (Separation) Act (1951), S. 9 (2) (June) 193

—S. 106 — Notice of eviction—Monthly tenancy in Punjab—15 days notice is necessary but it need not terminate with end of month of tenancy—*See* Houses and Rents — East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (Jan) 26

—S. 106 — Eviction of tenant under Rent Act—Prior notice determining contractual tenancy essential — *See* Houses and Rents — East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (Apr) 110 (FB)

—S. 109—Eviction of tenant under provisions of Rent Act—Prior notice under S. 106 terminating contractual tenancy—Necessity — *See* Houses and Rent — East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (Apr) 110 (FB)

T. P. Act (contd.)

—S. 111 — Defence of want of service of notice under — Has not been impliedly repealed or abrogated by the Rent Restriction Act — See Houses and Rents — East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (Apr) 110 (FB)

—S. 111 (g) — Tenant in arrears of rent—Ejectment proceedings — Liable for interest on arrears till arrears are deposited — See Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (2), cl. (1), Proviso (Oct) 367B

—S. 114 — Defaulting tenant—Ejectment proceedings — Interest on arrears of rent continues till actual date of deposit — See Houses and Rents—East Punjab Urban Rent Restriction Act (3 of 1949), S. 13 (2), cl. (1), Proviso (Oct) 367B

Wakf Act (29 of 1954), Ss. 3 (1), 15, 66.C (as amended in 1964) — Land recorded in Jamabandi of 1961-62 as "ghair mumkin kabrastan" in occupation of Ahl-e-Islam (followers of Islam) — Village predominantly consisting of Hindus — Only few Muslims who were there leaving for Pakistan—No tomb or grave in existence — Land occupied by persons and built upon — Land shamilat village and in ownership of Panchayat Deh—Entry in Jamabandi, held, not correct — No dedication by long use can be presumed (Oct) 344A

—S. 15 (as amended in 1964)—Evidence of origin and dedication to wakf should be

Wakf Act (contd.)

shown, to vest property in Board—See Wakf Act (1954) (as amended in 1959), S. 3 (1) (Oct) 344A

—S. 15 (as amended in 1964)—Land alleged to be wakf not in possession of Board for over twelve years—Claim of Board is barred —See Limitation Act (1908), Art. 142 (Oct) 344B

—S. 66C (as amended in 1964) — Graveyard —Origin of wakf not proved—No dedication either by Muslim or non-Muslim proved — Dedication cannot be presumed — See Wakf Act (1954) (as amended in 1959), S. 3 (1) (Oct) 344A

Words and Phrases — "And" — Proper meaning of—See Constitution of India, Art. 276 (Oct) 379B (FB)

—"Appointment" — See Civil Services — Punjab Civil Services Rules, Vol. 2, R. 4.2 (June) 178

—"Cloth" — Meaning of — See Central Excise Rules (1944), R. 96-D (2) (Oct) 363

—"Collector" — Meaning of—See Defence of India Act (1962), S. 29 (Oct) 376D

—"Or" — Proper meaning of—See Constitution of India, Art. 276 (Oct) 379B (FB)

—"Proceedings" — Meaning of—See Punjab Reorganisation Act (1966), S. 93 (May) 147A

—"Recruitment" — See Civil Services — Punjab Civil Services Rules, Vol. 2, R. 4.2 (June) 178

—"State" — Meaning—See Constitution of India, Art. 311 (Nov) 391A

PUNJAB CASES SUBJECTWISE OVERRULED, REVERSED AND DISSENTED FROM ETC., IN A. I. R. 1969

Diss.=Dissented from in; Over.=Overruled in; Revers.=Reversed in.

Bombay General Clauses Act (1 of 1904)

—S. 15—AIR 1943 Sind 107—Diss. A I R 1969 Guj 1A (Jan) (FB).

Civil Procedure Code (5 of 1908)

- S. 115—AIR 1937 Sind 279—Diss. AIR 1969 Andh Pra 216A (July).
- S. 149 — A I R 1938 Lah 361 (FB) — Doubted in view of A I R 1958 S C 767 as interpreted AIR 1969 Punj 308A (Sep).
- S. 151 (as amended by Madras Amendment of 1930) — A I R 1937 Sind 279 Diss. AIR 1969 Andh Pra 216A (July).
- S. 151 — Civil Revn. No. 422 of 1968, D/- 22-5-1968 (Punj) — Revers. A I R 1969 S C 938 (Nov).
- O. 9, R. 7 — AIR 1950 Lah 43—Held no longer good law in view of AIR 1964 S C 993 as interpreted A I R 1969 Orissa 261 (Oct).
- O. 20, R. 14 (1) (b) — (1967) 69 Pun L R 319 — Over. AIR 1969 Punj 422 (Dec) (FB).
- O. 39, R. 2 — Civil Revn. No. 422 of 1968, D/- 22-5-1968 (Punj) — Revers. AIR 1969 S C 938 (Nov).
- O. 41, R. 1—AIR 1938 Lah 361 (FB) — Doubted in view of AIR 1958 S C 767 as interpreted AIR 1969 Punj 308A (Sep).
- O. 41, R. 23—AIR 1937 Sind 279—Diss. AIR 1969 Andh Pra 216A (July).
- O. 43, R. 1 — C. R. No. 422 of 1968, D/- 22-5-1968 (Punj) — Revers. A I R 1969 S C 938 (Nov).

CIVIL SERVICES

—Fundamental Rules

- R. 52 — I L R (1966) 1 Punj 302—Over. AIR 1969 Punj 441A (Dec) (FB).
- R. 52 — R. F. A. No. 8-D of 1964, D/- 6-9-1966 (Punj)—Over. AIR 1969 Punj 441A (Dec) (FB).
- R. 52 — (1967) 1 Ser L R 594 (Punj)!—Over. AIR 1969 Punj 441A (Dec) (FB).

Constitution of India

- Art. 13—AIR 1968 Punj 391—Over. AIR 1969 S C 1109A (Nov).
- Art. 31 (2) — ('67) L. P. A. No. 37 of 1967, D/- 3-5-1967 (Punj) — Revers. AIR 1969 S C 1126E (Dec).
- Art. 31 (2)—L. P. A. No. 37 of 1967 D/- 3-5-1967 (Punj)—Revers. AIR 1969 S C 1126B (Dec).
- Art. 32—AIR 1968 Punj 391—Over. AIR 1969 S C 1100A (Nov).

Constitution of India (contd.)

- Art. 51—C.R.D. 104D of 1958, D/- 12-9-1963 (Punj) — Revers. A I R 1969 S C 1330B (Dec).
- Art. 209 — ILR (1968) 2 Punj & Har 42 (FB) — Revers. A I R 1969 S C 903E (Oct).
- Art. 226—AIR 1963 Punj 336 — Revers. AIR 1969 S C 966A (Nov).
- Art. 226—AIR 1966 Punj 443 — Revers. AIR 1969 Punj 257C (Aug).
- Art. 226 — A I R 1968 Punj 391—Over. AIR 1969 S C 1100A (Nov).
- Art. 226 — ILR (1968) 2 Punj & Har 42 (FB) — Revers. A I R 1969 S C 903G (Oct).
- Art. 226—AIR 1969 Punj 34 — Held no longer good law in view of AIR 1968 S C 850 as interpreted A I R 1969 Mys 362 (Dec).
- Art. 246 — A I R 1968 Punj 391—Over. AIR 1969 S C 1100A (Nov).
- Art. 276 — A I R 1960 Punj 394—Over. AIR 1969 Punj 379B (Oct) (FB).
- Art. 311—AIR 1966 Punj 443 — Revers. AIR 1969 Punj 257C (Aug).
- Art. 311—AIR 1963 Punj 336 — Revers. AIR 1969 S C 966A, C (Nov).
- Sch. 7, List 2, Ent. 28 — AIR 1968 Punj 391—Over. AIR 1969 S C 1100A (Nov).

Contempt of Courts Act (32 of 1952)

- S. 3—('68) Cri. Original No. 111 of 1967, D/- 3.1-1968 (P & H) — Revers. AIR 1969 Punj 60F (Feb).

Criminal Procedure Code (5 of 1898)

- S. 145 (4) — AIR 1929 Lah 223 — Diss. AIR 1969 Ker 188A (June).
- S. 145 (4) — AIR 1933 Lah 409 — Diss. AIR 1969 Raj 82A (Mar).
- S. 146—AIR 1968 Punj 301—Diss. AIR 1969 Assam 81B (July).
- S. 146 (2) — AIR 1929 Lah 223 — Diss. AIR 1969 Ker 188A (June).
- S. 397 (1) — AIR 1925 Lah 334 — Diss. AIR 1969 Delhi 133 (May)

Custom (Punjab)

- S. A. No. 254 of 1962 D/- 18-11-1963 (Punj)—Revers. AIR 1969 S C 1144A (Dec).

DEBT LAWS

—Displaced Persons (Debt Adjustment) Act (7 of 1951)

- S. 13 — ('63) C. R. D. 104D of 1958 D/- 12-9-1963 (Punj) — Revers. AIR 1969 S C 1330B (Dec).

DEBT LAWS**—Punjab Relief of Indebtedness Act
(7 of 1934)**

- S. 31 — ILR (1964) 1 Punj 626 — **Over.** AIR 1969 S C 1273 (Dec).
- S. 31 — Civ. No. 750 of 1962 (Punj) D/- 18-3-1964 — **Revers.** AIR 1969 S C 1273 (Dec).

Defence of India Act (51 of 1962)

- S. 29 — AIR 1966 Punj 141 — **Revers.** AIR 1969 S C 488 (June).
- S. 40 — AIR 1966 Punj 141 — **Revers.** AIR 1969 S C 483 (June).

Displaced Persons (Compensation and Rehabilitation) Act (44 of 1954)

- S. 16 (1) — ('66) Civil Writ No. 2417 of 1965 D/- 9-8-1966 (Punj) — **Revers.** AIR 1969 Punj 4 (Jan)

East Punjab Factories (Control of Dismantling) Act (20 of 1948)

- S. 3 — ('61) L. P. A. No. 405 of 1958, D/- 3-10-1961 (Punj) — **Revers.** AIR 1969 S C 27 (Jan).

Evidence Act (1 of 1872)

- S. 159 — AIR 1932 Lah 7 — **Over.** AIR 1969 S C 851A (Oct).
- S. 159 — AIR 1938 Lah 629 — **Over.** AIR 1969 S C 851A (Oct).
- S. 160 — AIR 1932 Lah 7 — **Over.** AIR 1969 S C 851A (Oct).
- S. 160 — AIR 1938 Lah 629 — **Over.** AIR 1969 S C 851A (Oct).

HINDU LAW — DEBTS

- AIR 1935 Lah 1 — **Diss.** AIR 1969 All 155 (Apr).

Hindu Marriage Act (25 of 1955)

- S. 10 (1) (a) — ('56) F. A. O. No. 54 of 1954, D/- 20-9-1956 (Punj) — **Over.** AIR 1969 Punj 69 (Mar).
- S. 10 (1) (a) — ('56) F. A. O. No. 95 of 1954, D/- 18-9-1956 (Punj) — **Over.** AIR 1969 Punj 69 (Mar).
- S. 10 (1) (a) — ('66) L. P. A. 263 of 1966, D/- 1-8-1966 (Punj) — **Revers.** AIR 1969 Punj 69 (Mar).
- S. 12 — ('56) F. A. O. No. 54 of 1954, D/- 20-9-1956 (Punj) — **Over.** AIR 1969 Punj 69 (Mar).
- S. 12 — ('56) F. A. O. No. 95 of 1954, D/- 18-9-1956 (Punj) — **Over.** AIR 1969 Punj 69 (Mar).
- S. 12 — ('66) L. P. A. 263 of 1966, D/- 1-8-1966 (Punj) — **Revers.** AIR 1969 Punj 69 (Mar).
- S. 23 — ('56) F. A. O. No. 54 of 1954, D/- 20-9-1956 (Punj) — **Over.** AIR 1969 Punj 69 (Mar).

Hindu Marriage Act (contd.)

- S. 23 — ('56) F. A. O. No. 95 of 1954 D/- 18-9-1956 (Punj) — **Over.** A I R 1969 Punj 69 (Mar).
- S. 23 — ('66) L. P. A. 263 of 1966, D/- 1-8-1966 (Punj) — **Revers.** A I R 1969 Punj 69 (Mar).
- S. 28 — ('56) F. A. O. No. 54 of 1954, D/- 20-9-1956 (Punj) — **Over.** A I R 1969 Punj 69 (Mar).
- S. 28 — ('56) F. A. No. 95 of 1954, D/- 18-9-1956 (Punj) — **Over.** A I R 1969 Punj 69 (Mar).
- S. 28 — ('66) L. P. A. 263 of 1966, D/- 1-8-1966 (Punj) — **Revers.** A I R 1969 Punj 69 (Mar).

Hindu Succession Act (30 of 1956)

- S. 2 — ('63) S. A. No. 254 of 1962 D/- 18-11-1963 (Punj) — **Revers.** AIR 1969 S C 1144A (Dec).
- S. 4 (1) — ('63) S. A. No. 254 of 1962 D/- 18-11-63 (Punj) — **Revers.** AIR 1969 S C 1144A (Dec).

HOUSES AND RENTS**—East Punjab Urban Rent Restriction Act (3 of 1949)**

- S. 13 — AIR 1952 Punj 422 — **Over.** AIR 1969 Punj 110 (FB) (Apr).
- S. 13 (1) & (2) — A I R 1933 Lah 134 — **Diss.** AIR 1969 Punj 26 (Jan)
- S. 13 (2) (i) — I L R (1964) 1 Punj 626 — **Over.** AIR 1969 S C 1273 (Dec).
- S. 13 (2) (i) — Civ. Revn. No. 750 of 1962 D/- 18-3-1964 (Punj) — **Revers.** A I R 1969 S C 1273 (Dec).
- S. 13 (3) (a) (ii) — ('61) Civil Revn. No. 165 of 1960, D/- 7-4-1961 (Punj) — **Held No Longer good Law** in view of A I R 1967 Punj 297 (FB) as interpreted. AIR 1969 Punj 270G (Aug).
- S. 13 (2), Cl. (1), Proviso — 1966 Cur L J 530 (Punj) — **Over.** A I R 1969 Punj 367B (Oct).

Industrial Disputes Act (14 of 1947)

- S. 10 — AIR 1966 Punj 354 — **Diss.** A I R 1969 Raj 95A (Mar).
- S. 10 (1) — AIR 1966 Punj 354 — **Diss.** AIR 1969 Madh-Pra 174 (Sep).
- S. 12 (5) — A I R 1966 Punj 354 — **Diss.** AIR 1969 Raj 95A (Mar).

Land Acquisition Act (1 of 1894)

- S. 18 — AIR 1953 Punj 490 — **Diss.** A I R 1969 Pat 131 (Apr).

Limitation Act (9 of 1908)

- S. 20 — ('12) Observations in (1912) 14 Ind Cas 335 (Lah)—Not. F. AIR 1969 Cal 390A (Aug).
- Art. 102—R. F. A. No. 8-D of 1964 D/- 6.9.1966 (Punj)—Over. AIR 1969 Punj 441A (FB) (Dec).
- Art. 102—ILR (1966) 1 Punj 302—Over. AIR 1969 Punj 441A (FB) (Dec).
- Art. 102—(1967) 1 Ser L R 594 (Punj)—Over. AIR 1969 Punj 441A (FB) (Dec.).
- Art. 181—AIR 1952 Panj 423 — Held no longer good law in view of A I R 1967 S C 990 as interpreted AIR 1969 All 518 (FB) (Nov).
- Art. 183 — Observation in (1961) 14 Ind Cas 335 (Lah) — Not F. A I R 1969 Cal 390A (Aug).

Limitation Act (36 of 1963)

- S. 5 — (1968) 79 Pun L R (D) 332 — Revers. AIR 1969 S C 575B (July).
- Arts. 64, 65—AIR 1932 Sind 35 — Diss. AIR 1969 Orissa 54 (Mar).

Motor Vehicles Act (4 of 1939)

- S. 110F—AIR 1962 Punj 307—Held overruled by A I R 1965 Punj 102 as interpreted AIR 1969 Raj 316 (Dec).

Pakistan (Administration of Evacuee Property) Ordinance (15 of 1949)

- S. 45—C. R. D. 104D of 1958, D/- 12.9.1963 (Punj) — Revers. A I R 1969 S C 1330B (Dec).

Partnership Act (9 of 1932)

- S. 4—A I R 1956 Punj 24 — Partly Diss. from. AIR 1969 Guj 178C (June)
- S. 63—AIR 1956 Punj 24 — Partly Diss. from. AIR 1969 Guj 178C (June)
- S. 69 (2) — A I R 1956 Punj 24—Partly Diss. from. AIR 1969 Guj 178C (June).

Payment of Wages Act (4 of 1936)

- S. 2 (vi) (d) (as amended by Act 68 of 1957) — (1967) 1 Lab L J 232 (Punj)—Over. AIR 1969 S C 590 (July).
- S. 15 (2)—(1967) 1 Lab L J 232 (Punj)—Over. AIR 1969 S C 590 (July).

Punjab Custom (Power to Contest) Act (2 of 1920)

- S. 8 — S. A. No. 254 of 1962, D/- 18.11.1963 (Punj) — Revers. A I R 1969 S C 1144A (Dec).

Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance (1 of 1968)

- S. 3—ILR (1968) 2 Punj & Har 42 (FB) — Revers. AIR 1969 S C 903F (Oct).

Punjab Pre-Emption Act (1 of 1913)

- S. 15 (1) (b), Thirdly (as amended, Punjab Act 10 of 1960) — 1968-70 Pun L R 571 — Over. AIR 1969 Delhi 154B (May) (FB).

SALES TAX**—Punjab General Sales Tax Act (46 of 1946)**

- S. 5 (2) (a) (vi) — (1964) 15 S T C 865 (Punj) — Over. A I R 1969 S C 1073 (Nov).
- S. 5 (2) (a) (vi) — ('64) Civil Writ Nos. 2159, 2309 of 1963, D/- 23.9.1964 (Punj) — Revers. A I R 1969 S C 1073 (Nov).

STAMP DUTY**—Stamp Act (2 of 1899)**

- S. 2 (14), (10), (6), (12) — AIR 1936 Lah 449 (SB) — Diss. A I R 1969 Mad 1A (FB) (Jan).
- Sch. 1, Art. 12—AIR 1936 Lah 449 (SB) — Diss. AIR 1969 Mad 1A (FB) (Jan).

States Reorganisation Act (37 of 1956)

- S. 115 — AIR 1969 Punj 34 — Held not good law in view of A I R 1968 S C 850 as interpreted A I R 1969 Mys 362 (Dec).

TENANCY LAWS**—Punjab Security of Land Tenures Act (10 of 1953)**

- S. 19-A—(1967) 69 Pun L R 319 — Over. AIR 1969 Punj 422 (FB) (Dec).

Transfer of Property Act (4 of 1882)

- S. 116—1898 Pun Re 33—Diss. AIR 1969 Delhi 59 (Feb).
- S. 116—1904 Pun Re 5 — Diss. AIR 1969 Delhi 59 (Feb).
- S. 116—AIR 1919 Lah 72 — Diss. A I R 1969 Delhi 59 (Feb).
- S. 116—AIR 1924 Lah 643—Diss. A I R 1969 Delhi 59 (Feb).
- S. 116—F. A. No. 190 of 1944, D/- 8.9.1948 (Lah) — Diss. AIR 1969 Delhi 59 (Feb).
- S. 116—('48) Civ. Revn. No. 248 of 1948 D/- 3.9.1948 (Lah) — Diss. A I R 1969 Delhi 59 (Feb).

**PUNJAB CASES OVERRULED, REVERSED AND DISSENTED FROM ETC.,
IN A. I. R. 1969**

Diss.=Dissented From in; Over.=Overruled in; Revers.=Reversed in.

- (1898) Pun Re 33, Ganga Singh v. Mst. Shib Devi—Diss. AIR 1969 Delhi 59 (Feb).
- (1904) Pun Re 5 = 42 Pun L R 1904, Pirbha Dial v. Ram Chand—Diss. AIR 1969 Delhi 59 (Feb).
- Observations in (1912) 14 Ind Cas 335 = 155 Pun L R 1012, Ramdas v. Kanshiram—Not F. AIR 1969 Cal 390A (Aug).
- AIR 1919 Lah 72 = 1918 Pun Re 70, Madan Mohan Lal v. B. Barooah and Co.—Diss. AIR 1969 Delhi 59 (Feb).
- AIR 1924 Lah 643 = 75 Ind Cas 1034, Rure Khan v. Gulam Muhamed—Diss. AIR 1969 Delhi 59 (Feb).
- AIR 1925 Lah 334=26 Cri L J 731, Batan Singh v. Emperor—Diss. AIR 1969 Delhi 133 (May).
- AIR 1929 Lah 223=1930 Cri L J 411, Diwan Chand v. Emperor—Diss. AIR 1969 Ker 188A (June).
- AIR 1932 Lah 7=32 Cri L J 1172, Jagan Nath v. Emperor—Over. AIR 1969 S C 851A (Oct).
- AIR 1932 Sind 35=26 Sind L R 127, Gagulmal Metharam v. Allahbux—Diss. AIR 1969 Orissa 54 (Mar).
- AIR 1933 Lah 134=34 Pun L R 162, Rattan Sen v. Krishan Kaur — Diss. AIR 1969 Punj 26 (Jan).
- AIR 1933 Lah 409=34 Cri L J 342, Prem Kuar v. Benarasi Das — Diss. AIR 1969 Raj 82A (Mar).
- AIR 1935 Lah 1 = 157 Ind Cas 739, Jai Kishen v. Ram Chand—Diss. AIR 1969 All 155 (Apr).
- AIR 1936 Lah 449=ILR 17 Lah 223 (SB), Shamdin v. Collector Amritsar—DISS. AIR 1969 Mad 1A (FB) (Jan).
- AIR 1937 Sind 279=172 Ind Cas 403, Sultanul-Malak Ali v. Sultan Ali Gohar — Diss. AIR 1969 Andh Pra 216A (July).
- AIR 1938 Lah 361=40 Pun L R 413 (FB), Jagat Ram v. Misai Kharaiti Ram — Doubtad in view of AIR 1958 S C 767 as interpreted A I R 1969 Punj 308A (Sep).
- AIR 1938 Lah 629=39 Cri L J 930, Sodhi Pindi Das v. Emperor—Over. AIR 1969 S C 851A (Oct).
- AIR 1943 Sind 107=44 Cri L J 502, Emperor v. Udho Chandumal — Diss. AIR 1969 Guj 1A (FB) (Jan).
- (48) F. A. No. 190 of 1944, D/- 8-9-1948 (Lah), Nabi Baksh Mahomed Hussain v. Ram Kanwar Das—Diss. AIR 1969 Delhi 59 (Feb).
- (48) Civil Revn. No. 248 of 1948, D/- 3-9-1948 (Lah) — Diss. AIR 1969 Delhi 59 (Feb).
- AIR 1950 Lah 43 = Pak Cas 1950 Lah 162, Krishan Lal v. Madan Lal — Held no longer good law in view of AIR 1964 S C 993 as interpreted A I R 1969 Orissa 261 (Oct).
- AIR 1952 Punj 422=54 Punj L R 358, Bawa Singh v. Kundan Lal—Over. AIR 1969 Punj 110 (FB) (Apr).
- AIR 1952 Punj 423 = ILR (1952) Punj 524, Union of India v. Firm Kiroo Mal Nawal Kishore — Held no longer good law in view of AIR 1967 S C 990 as interpreted A I R 1969 All 518 (FB) (Nov).
- AIR 1956 Punj 24=ILR (1957) Punj 27, Dr. V. S. Bahal v. S. L. Kapur & Co. — Partly Diss. from, AIR 1969 Guj 178C (June).
- (56) F. A. O. No. 54 of 1954, D/- 20-9-1956 (Punj), Jagdish Chand v. Vir Singh — Over. AIR 1969 Punj 69 (Mar).
- (56) F. A. O. No. 95 of 1954, D/- 18-9-1956 (Punj), Khazan Chand v. Hans Raj — Over. AIR 1969 Punj 69 (Mar).
- AIR 1958 Punj 490 = ILR (1958) Punj 854, Hari Krishna Khosla v. State of Punjab — Diss. AIR 1969 Pat 131 (Apr).
- AIR 1960 Punj 394=62 Pun L R 170, Lachhman Das Makhanlal v. State of Punjab — Over. AIR 1969 Punj 379B (FB) (Oct).
- (61) Civil Revn. No. 165 of 1960, D/- 7-4-1961 (Punj), S. Pratap Singh v. Santosh Singh — Held no longer good law in view of A I R 1967 Punj 297 (FB) as interpreted AIR 1969 Punj 270G (Aug).
- (61) L. P. A. No. 405 of 1958, D/- 3-10-1961 (Punj) — Revers. A I R 1969 S C 27 (Jan).
- AIR 1962 Punj 307=63 Pun L R 524, Mulak Raj Bhola Shah v. Northern India Goods Transport Corporation Ltd. — Held overruled by AIR 1965 Punj 102 as interpreted A I R 1969 Raj 316 (Dec).
- AIR 1963 Punj 336, Railway Board v. Niranjan Singh — Revers. AIR 1969 S C 966A, C (Nov).
- (1963) C. R. D. 104-D of 1958, D/- 12-9-1963 (Punj) — Revers. AIR 1969 S C 1330B (Dec).
- (1963) S. A. No. 254 of 1962, D/- 18-11-1963 (Punj)—Revers. AIR 1969 S C 1144A (Dec).
- ILR (1964) 1 Punj 626 = 66 Pun L R 93, Mam Chand v. Chhotu Ram — Over. AIR 1969 S C 1273 (Dec).
- 1964-15 S T C 865 (Punj), Patel Cotton Co.

- Private Ltd. v. State of Punjab — **Over.** AIR 1969 S C 1070 (Nov).
- (1964) Civ. Revn. No. 750 of 1962, D/- 18-3-1964 (Punj)—**Revers.** AIR 1969 S C 1273 (Dec).
- (64) Civil Writs Nos. 2959 & 2309 of 1963, D/- 28-9-1964 (Punj) — **Revers.** AIR 1969 S C 1073 (Nov).
- AIR 1966 Punj 141=ILR (1965) 2 Punj 576 = 1966 Cri L J 434, Harichand v. Batala Engineering Co.—**Revers.** AIR 1969 S C 483 (June).
- AIR 1966 Punj 354 = ILR (1966) 2 Punj 498, Gondhara Transport Co. (Pvt.) Ltd. v. State of Punjab—**Diss.** A I R 1969 Madh Pra 174 (Sep).
- AIR 1966 Punj 354 = 1966 Cur L J 203 = ILR (1966) 2 Punj 498, Gondhara Transport Co. (P.) Ltd. v. State — **Diss.** AIR 1969 Raj 95A (Mar).
- AIR 1966 Punj 443, Suresh Kumar v. Union of India—**Revers.** AIR 1969 Punj 257C (Aug).
- ILR (1966) 1 Punj 302 = 67 Pun L R 1092, K. K. Jaggia v. State of Punjab — **Over.** AIR 1969 Punj 441A (FB) (Dec).
- 1966 Cur L J 530 (Punj), Lachman Dass v. Satya Pal—**Over.** AIR 1969 Punj 367B (Oct).
- (1966) R. F. A. No. 8-D of 1964, D/- 6-9-1966 (Punj), Union of India v. Maharaj — **Over.** AIR 1969 Punj 441A (FB) (Dec).
- Cri. Revn. No. 34M of 1965, D/- 4-2-1966 (Punj) — **Revers.** A I R 1969 S C 355B (May).
- Civil Writ No. 2417 of 1965, D/- 9-8-1966 (Punj) — **Revers.** A I R 1969 Punj 4 (Jan).
- L. P. A. 263 of 1966, D/- 1-8-1966 (Punj) — **Revers.** AIR 1969 Punj 69 (Mar).
- (1967) 1 Lab L J 232=67 Pun L R 1124, Uttam Chand v. Kartar Singh — **Over.** AIR 1969 S C 590 (July).
- (1967) 69 Pun L R 319=1967 Cur L J 200, Kartar Singh v. Ghukar Singh—**Over.** AIR 1969 Punj 422 (FB) (Dec).
- (1967) 1 Ser L R 594=69 Punj L R 430, State of Punjab v. Ram Singh Brar — **Over.** AIR 1969 Punj 441A (FB) (Dec).
- L. P. A. No. 37 of 1967, D/- 3-5-1967 (Punj) — **Revers.** AIR 1969 S C 1126B (Dec).
- AIR 1968 Punj 301=1968 Cri L J 971, Maharaj Kumar Gajbir Singh v. Maharaj Satbir Singh — **Diss.** AIR 1969 Assam 81B (July).
- A I R 1968 Punj 391=70 Pun L R 935, Mohinder Singh Sowhney v. State of Punjab — **Over.** AIR 1969 S C 1100A (Nov).
- I L R (1968) 2 Punj & Hariyana 42 (FB), Satya Pal Dang v. State of Punjab — **Revers.** A I R 1969 S C 903E, F, G. (Oct).
- (1968) 70 Pun L R 571=I L R (1968) 1 Punj 693, Hira v. Bir Singh—**Over.** A I R 1969 Delhi 154B (FB) (May).
- (1968) 70 Pun L R (D) 332, Shakuntala Devi Jain v. Kanta Kumari — **Revers.** AIR 1969 S C 575B (July).
- Cri. Original No. 111 of 1967, D/- 3-1-1968 (P. & H.)—**Revers.** AIR 1969 Punj 60E (Feb).
- Civil Revn. No. 422 of 1968, D/- 22-5-1968 (Punj) — **Revers.** A I R 1969 S C 938 (Nov).
- AIR 1969 Punj 34=I L R (1968) 1 Punj 201, K. C. Gupta v. Union of India—**Held not good law** in view of AIR 1968 S C 850 in AIR 1969 Mys 362 (Dec).

COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous Years

Owing to late receipt of Other Journals the following Supplement to Comparative tables of A. I. R. = Other Journals is issued

A. I. R. Punjab = Other Journals

AIR 1966 Punjab		AIR 1968 Punjab		AIR 1968 Punjab		AIR 1968 Punjab	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
242	(1969) 1 Lab L J 367	106	1968 Serv L R 619	403	1968 Serv L R 478	499	1968 Serv L R 484
		253	1968 Serv L R 183	406	ILR (1969) 1	514	35 F J R 94
	AIR 1967 Punjab	292	39 Com Cas 638		Punj 378	520	1969 All Cri R 47
	Other Journals	341	1968 Pun L J 102	436	1968 Serv L R 455	526	ILR (1969) 1
76	(1969) 2 Lab L J 247	376	1969 Cur L J 387	441	ILR (1969) 1		Punj 267
279	(1969) 1 Lab L J 679		ILR (1969) 1		Punj 176	529	ILR (1969) 1
342	(1969) 1 Lab L J 472		Punj 661	476	70 I T R 249		Punj 70
415	(1969) 2 Lab L J 252	389	ILR (1969) 1	499	ILR (1969) 1	548	ILR (1969) 1
450	(1969) 1 Lab L J 452		Punj 260		Punj 23		Punj 672
		891	ILR (1969) 1 Punj 1				

A. I. R. 1969 Punjab = Other Journals (concl'd.)

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [C N 1]	1968 Cur L J 770	73 [C N 15]	---	197 [C N 34]	---	350 [C N 60]	1969 Cur L J 325
4 [C N 2]	1968 Cur L J 668	76 [C N 16]	---	200 [C N 35]	---		71 Pun L R 519
	70 Pun L R 874	79 [C N 17]	ILR (1969) 1	201 [C N 36]	---		1969 Cri L J 1422
	ILR (1968) 2		Punj 680	204 [C N 37]	1969 Cri L J 787	352 [C N 61]	FB ILR (1969) 1
	Punj 651	98 [C N 18]	1968 Cur L J 376	207 [C N 38]	71 Pun L R 248		Punj 616
			70 Pun L R 462		ILR (1969) 2		71 Pun L R 647
8 [C N 3]	ILR (1969) 1		ILR (1968) 2	214 [C N 39]	---	363 [C N 62]	1969 Cur L J 322
	Punj 44	101 [C N 19]	1969 Cri L J 506	216 [C N 40]	ILR (1968) 2	365 [C N 63]	---
	70 I T R 843		ILR (1969) 2		Punj 660	367 [C N 64]	1969 Cur L J 415
12 [C N 4]	22 S T C 335	104 [C N 20]	ILR (1969) 2	225 [C N 41]	1969 Cri L J 932		71 Pun L R 571
	ILR (1969) 2		Punj 484		ILR (1969) 2		1969 Renc C R 290
	Punj 23	110 [C N 21]	1968 Cur L J 947	244 [C N 42]	71 Pun L R 152	372 [C N 65]	1968 Cur L J 793
25 [C N 5]	ILR (1969) 2	FB	70 Pun L R 1011		71 Pun L R 152		70 Pun L R 968
	Punj 365		ILR (1969) 1	250 [C N 43]	71 Pun L R 141	376 [C N 66]	ILR (1968) 1
26 [C N 6]	70 Punj L R 720		1969 Renc C R 1	256 [C N 44]	71 Pun L R 177		Punj 146
	1968 Cur L J 607	131 [C N 22]	1969 Lab I C 573	257 [C N 45]	ILR (1969) 1	379 [C N 67]	70 Pun L R 990
	ILR (1969) 1		ILR (1969) 2		Punj 103	FB	ILR (1968) 2
34 [C N 7]	ILR (1968) 1	139 [C N 23]	70 Pun L R 712		1969 Lab I C 958		Punj 695
	Punj 204		1968 Cur L J 598	270 [C N 46]	70 Pun L R 913	387 [C N 68]	1969 Cur L J 242
44 [C N 8]	1968 Cur L J 658	144 [C N 24]	---		ILR (1969) 1		71 Pun L R 581
	70 Punj L R 865	147 [C N 25]	ILR (1968) 2		Punj 274		1969 Cri L J 1424
	ILR (1969) 1		1969 Lab I C 581	285 [C N 47]	1968 Cur L T 918	391 [C N 69]	1969 Lab I C 1406
	Punj 406		ILR (1969) 1		70 Pun L R 1112		71 Pun L R 1047
50 [C N 9]	ILR (1969) 1	150 [C N 26]	---		ILR (1969) 2	396FB [C N 70]...	
	Punj 456	159 [C N 27]	1968 Cur L J 907		Punj 534	397 [C N 71]	FB ILR (1968) 2
			ILR (1969) 1	287 [C N 48]	1969 Cur L T 88		Punj 714
57 [C N 10]	70 Pun L R 451	161 [C N 28]	1968 Cur L J 846		...	422 [C N 72]	1969 Cur L J 641
	ILR (1969) 2		1969 Lab I C 585	290 [C N 49]	...	FB	ILR (1969) 2
	Punj 309		1968 Serv L R 764	304 [C N 50]	71 Pun L R 202		Punj 205
60 [C N 11]	70 Pun L R 1042		ILR (1969) 2	305 [C N 51]	---		71 Pun L R 782
	1969 Cri L J 320	172 [C N 29]	ILR (1969) 2	308 [C N 52]	---	429 [C N 73]	71 Pun L R 1070
	ILR (1969) 2		Punj 522	310 [C N 53]	1969 Lab I C 1126		(1969) 2 I T J 856
	Punj 385	178 [C N 30]	70 Pun L R 985	324 [C N 54]	1969 Lab I C 1226	435 [C N 74]	1969 Pun L J 211
62 [C N 12]	1968 Cur L J 834		1968 Serv L R 883	329 [C N 55]	1969 Cur L J 84		ILR (1969) 2
	70 Punj L R 890		1969 Lab I C 696		71 Pun L R 198		Punj 249
66 [C N 13]	1968 Cur L J 491		ILR (1969) 2	331 [C N 56]	1969 Serv L R 194		1969 Cri L J 1229
	ILR (1969) 1	181 [C N 31]	24 S T C 50	340 [C N 57]	1969 Cur L J 92	441 [C N 75]	1969 Cur L J 404
	Punj 523		ILR (1970) 1		71 Pun L R 273	FB	1969 Serv L R 376
	18 Fac L R 280	187 [C N 32]	1969 Lab I C 669	342 [C N 58]	71 Pun L R 597		ILR (1969) 2
	1969 Lab I C 301		Punj 1		71 Pun L R 1081		Punj 96
	35 F J R 445	193 [C N 33]	71 Pun L R 106				71 Pun L R 877
69 [C N 14]	70 Pun L R 643						1969 Lab I C 1513
	1968 Cur L J 622						36 F J R 327
	ILR (1969) 1						
	Punj 393						

Other Journals = All India Reporter

ILR (1968) 1	ILR (1968) 2 Punjab	ILR (1969) 1 Punjab	ILR (1969) 1 Punjab	ILR (1969) 1 Punjab	ILR (1969) 2 Punjab
Punjab	AIR	AIR	AIR	AIR	AIR
146 1969 Punj 376	660 1969 " 216	70 1968 Punj 529	440 1969 Punj 26	23 1969 Punj 12	
3 1970 " 81	695 " " 379	103 1969 " 257	456 " " 50	96 " " 441	
	714 " " 397	132 " " 110	523 " " 66	110 1970 " 104	
		176 1968 " 441	613 " " 159	173 1969 " 225	
		260 " " 389	616 " " 352	205 " " 422	
		267 " " 526	661 1968 " 376	221 " " 93	
		274 1969 " 270	672 " " 546	240 " " 18	
		304 1970 " 112	680 1969 " 79	249 1969 " 435	
		378 1968 " 403		292 " " 178	
		393 1969 " 69			
		406 " " 44			

ILR (1969) 2 Punjab			
ILR	AIR		
347	1970	Punj	9
355	1969	"	25
385	"	"	60
484	"	"	104
496	"	"	161
522	"	"	172
534	"	"	285
543	1970	"	60
589	"	"	67
641	1969	"	193
665	"	"	207
680	"	"	23

1969 C. I. S. (I.J.)			
CIS (I.J.)	AIR		
1	1968	SO	1370
4	1969	"	340

1968 Cur L J			
CurLJ	AIR		
376	1969	Punj	98
491	"	"	66
598	"	"	139
622	"	"	69
793	"	"	372
846	"	"	161
907	"	"	159
918	"	"	285
947	"	"	110

1969 Cur L J			
CurLJ	AIR		
69	1969	SO	575
84	"	Punj	329
88	"	"	287
92	"	"	340
116	"	SO	355
185	"	"	784
242	"	Punj	387
322	"	"	363

1969 Cur L J			
CurLJ	AIR		
325	1969	Punj	350
348	"	SO	1165
354	"	"	1073
377	"	"	971
387	1968	Punj	376
404	1969	"	441
415	"	"	387
423	1970	"	18
438	"	SO	122
471	"	Punj	93
503	"	"	60
572	"	"	23
594	"	"	1
607	"	"	67
630	"	"	9
641	1969	"	422

1969 Pun L J			
Pun LJ	AIR		
42	1969	SO	13
165	"	"	392
211	"	Punj	435
242	1970	"	23

(1968) 70 Pun LR			
Pun LR	AIR		
462	1969	Punj	98
643	"	"	69
712	"	"	139
913	"	"	270
968	"	"	372
985	"	"	178
990	"	"	379
1011	"	"	110
1112	"	"	285

(1969) 71 Pun LR			
PunLR	AIR		
44	1969	SO	13

(1969) 71 Pun L R			
FunLR	AIR		
93	1968	SO	1438
106	1969	Punj	193
141	"	"	250
152	"	"	244
177	"	"	256
198	"	"	329
202	"	"	304
212	1968	SO	1210
248	1969	Punj	207
273	"	"	340
370	"	SO	262
381	"	"	355
485	"	"	340
494	"	"	483
519	"	Punj	350
528	"	SO	1273
571	"	Punj	367
581	"	"	387
597	"	"	342
606	1970	"	104
625	"	"	9
647	1969	"	352
782	"	"	422
802	1970	"	60
853	"	"	23
877	1969	"	441
996	"	SO	1144
999	1970	Punj	21
1047	1969	"	391
1053	1970	"	67
1070	1969	"	429
1081	"	"	344

1968 Serv L R			
SLR	AIR		
1	1968	Ker	158
45	"	"	76
66	"	SO	507
88	1967	MP	284
92	1968	SO	346
104	"	"	850
119	"	"	292
135	"	Mys	81
136	1967	"	220

1968 Serv L R			
ServLR	AIR		
137	1968	Ker	234
183	"	Punj	255
224	1967	Mad	392
229	"	Pat	318
247	1968	SO	1210
252	"	"	353
265	"	All	91
269	"	Mys	206
273	"	Bom	65
330	"	SO	464
393	"	"	1113
344	"	"	647
353	"	Punj	436
382	"	Delhi	85
413	"	Ker	72
422	"	Pat	113
430	"	An Pra	5
455	"	MP	177
478	"	Punj	403
484	"	"	499
519	"	"	1439
524	"	"	687
533	"	MP	131
555	"	Raj	44
582	"	SO	754
593	"	"	800
603	"	An Pra	153
616	"	Assam	18
619	"	Punj	106
654	"	Assam	"
668	1969	Mys	61
683	"	J & K	26
701	"	SO	1089
718	"	Mad	118
730	"	SO	180
738	1968	"	1113
741	"	"	1385
748	1969	"	1
764	"	Punj	161
785	"	Mys	41

1968 Serv L R			
ServLR	AIR		
826	1968	SO	1370
830	"	All	276
838	1969	Orissa	13
843	1968	All	279
849	"	"	246
870	1969	MP	60
883	"	Punj	173

1969 Serv L R			
ServLR	AIR		
6	1969	SO	118
63	1968	"	1485
66	"	Delhi	269
72	"	Assam	52
75	"	Mad	387
79	1970	Punj	112
136	1969	MP	143
141	"	Orissa	46
148	"	"	169
168	"	Mys	225
177	"	An Pra	364
194	"	Punj	331
217	"	SO	1108
225	"	Ker	317
268	"	SO	1302
340	"	MP	216
356	1970	SJ	122
364	1969	Mys	346
366	"	"	306
376	"	Punj	441
429	1970	SO	158
439	1969	"	7
445	1970	"	100
463	"	"	40
481	1969	Mys	348
485	1970	SO	77
514	"	Ker	27
519	1969	SO	1294
565	"	Orissa	237
572	1970	SO	143
833	"	"	214
839	"	"	864

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RAJASTHAN SECTION

WITH COMPARATIVE TABLES FOR

(1) I. L. R. RAJASTHAN

(2) RAJASTHAN LAW WEEKLY

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RAJASTHAN HIGH COURT

1969

CHIEF JUSTICES :

The Hon'ble Mr Justice Daulat Mal Bhandari, M.A., LL. B. up to 15-12-69.

" " Jagat Narayan, C. E. (HONS.) I. C. S. From 16-12-69.

PUISNE JUDGES :

The Hon'ble Mr. Justice Jagat Narayan, C. E. (HONS), I. C. S. up to 15-12-69.

" " Lakshmi Narayan Chhangani, M.A., LL. B.

" " Chandra Bhan Bhargava, B.A., LL. B.

" " Bhagwati Prasad Beri, B.A., LL.B.

" " Prakash Narayan Singhal, M.A., LL.B.

" " Ved Pal Tyagi, B.Sc., LL.B.

" " Kan Singh, B.A. LL.B.

" " Lehar Singh Mehta, B.A., LL.B.

ADDITIONAL JUDGES :

The Hon'ble Mr. Justice Chand Mal Lodha, B.A. LL.B.

" " S. N. Modi From 1-3-69.

ADVOCATE-GENERAL :

Shri Gulabchand Kasliwal, M.A., LL.B.

GOVERNMENT-ADVOCATES :

Shri Murli Manohar Vyas, B.A., LL.B. (*Cum. Addl. Govt. Advocate-General*). upto 18-9-69

" B. C. Chatterjee, B.A., LL.B. (*Addl. Advocate-General cum Govt.-Advocate From 19-9-69.*)

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NOMINAL TABLE

Aditya Mills Ltd., Madanganj- Kishengarh v. Rajasthan State Electricity Board, Jaipur	(Sep) 254	Manphool v. Dulichand	(Jun) 169 (FB)
Balia v. Heerji	(Apr) 119	Menon U. G. v. State of Rajas- than	(Apr) 115
Bhairum Singh v. Jagannath Singh	(Mar) 82	Mithukhan v. State of Rajas- than	(Apr) 121
Bhatt Shailesh Kumar, v. Sampat Mal Lodha	(Oct) 276	Municipal Council, Ajmer v. Sadulla and State of Rajas- than	(Feb) 39
Bhonreylal v. Kunj Beharilal	(Nov) 299	Municipal Council, Jaipur v. Laxmi Narain	(Jan) 16
Commissioner of Wealth Tax Delhi and Rajasthan, v. Ganga- nagar Sugar Mills Ltd. Jaipur	(Dec) 310	Nag Raj v. R. K. Birla	(Sep) 245
Dhanpat Lal v. Harisingh	(Mar) 92	Narayan Swarup v. M/s. Shankar Lal and Sons, (Private) Ltd.	(Nov) 302
Dholpur Glass Works Ltd. v. Commissioner of Income Tax, Delhi and Rajasthan, New Delhi	(May) 142	Panbai v. Sajjanraj	(Oct) 278
Dwarka Das & Sons v. Regional Transport Authority, Jaipur	(Jun) 173	Poonamchand v. Bastiram Deo- kishan	(Dec) 313
Fateh Raj v. Suraj Roop	(Sep) 252	Premchand v. Bajrangibai	(Oct) 270
Good Year India Ltd., Jaipur v. Industrial Tribunal, Rajas- than	(Mar) 95	Rajasthan State Electricity Board, Jaipur v. Hindusthan Brown Boveri Ltd. Bombay	(Aug) 212
Govind Ram v. Lila Devi	(Sep) 253	Ramdayal v. Kishorilal Chau- dhary	(Jan) 24
Gulab Singh v. Bhan Mal	(Apr) 109	Ram Singh v. State	(Aug) 227
Gullaram v. Govindram	(Apr) 123 (FB)	Ramsingh v. State of Rajas- than	(Feb) 41
Gulzarilal v. Bhagwati Prasad	(Jan) 11	Shitabkhan v. Bar Council of India	(May) 136
Hardayal v. Jaggasingh	(Mar) 89	Shyamesh v. Public Prosecutor Pali	(Feb) 61
Harishchander Singh v. Regi- onal Transport Authority	(Aug) 228	State v. Bhola Singh	(Aug) 219
Inderjit Singh v. Sunder Singh	(May) 155	State v. Hari Singh	(Mar) 86
Jaipur Udhog Ltd. v. Union of India	(Oct) 281	State v. Parasmal	(Mar) 65
Jeevraj v. Lalchand	(Jul) 192 (FB)	State of Rajasthan v. Budh- ram	(Feb) 48
Jhanwarlal v. State of Rajas- than	(Jan) 29	State of Rajasthan v. Sawai Tejsinghji Maharaja of Alwar	(Feb) 52
Johari Mal v. State of Rajas- than	(May) 146	Sudesh Kumar v. Mool Chand	(Jan) 22
Jupiter Insurance Co. Ltd. v. Mohammad Malik	(Dec) 315	Surendrakumar v. State of Rajas- than	(Jul) 182
Kailash Chandra Jain v. State of Rajasthan	(Mar) 68	Syed Habib Hussain v. Kamal Chand	(Jan) 31
Keshari Lal v. Narain Prakash	(Mar) 75	Tej Ram v. State of Rajas- than	(Aug) 233
Koti Bai v. Kastoori Bai	(Oct) 264	Tickooram v. State of Rajas- than	(May) 129
Ladulal v. Keshavdas	(Apr) 112	Urban Improvement Trust v. Raj Kumari	(May) 131
Lajjaram v. Khubiram	(Jan) 9	Vinod Kumar v. State	(Oct) 266
Mahadeo v. Hanumanmal	(Nov) 304	Walkar Anjaria and Sons Pri- vate Ltd. v. State of Rajas- than	(Jun) 162
Mahommed Abdul Baqi Khan v. Rajasthan Board of Muslim Wakf, Jaipur	(Jan) 1	Yadav Motor Transport Co. v. Jagdish Prasad	(Dec) 316

SUBJECT INDEX

Advocates Act (25 of 1961), S. 7 (h) (i) —
 Enrollment as Advocate — Powers of Bar
 Council — See Advocates Act (1961), S. 24
 (1) (c) (iii) (May) 136

—Ss. 24 (1) (c) (iii), 7 (h) (i) and 49
 (ag) — Powers of Bar Council — Enrol-
 ment as Advocate — Recognition of law
 degrees obtained after graduation —
 Resolution not invalid — Receiving Dip-
 loma in Rural Services, held, no gra-
 duation — (Constitution of India, Arts. 14
 and 19) — (Civil P. C. (1908), Pre. —
 Interpretation of Statutes) (May) 136

—S. 49 (ag) — Enrollment as advocate
 — Powers of Bar Council — See Advoca-
 tes Act (1961), S. 24 (1) (c) (iii)
 (May) 136

Army Act (46 of 1950), S. 122 — Period
 of limitation under — Court-martial has
 no jurisdiction to try case after expiry of
 (Apr) 115C

—Ss. 125 and 126 — Criminal P. C.
 (1898), Section 549 — Criminal Courts
 and Court-Martial (Adjustment of Juris-
 diction) Rules (1952), Rules 5, 6, 8 and 9
 — Trial of military personnel — Deter-
 mination of venue for — Final choice
 rests with Central Government — Dis-
 cretion of military authority under Rule
 6, not final — No legal hindrance for
 authority to differ from previous order
 (Apr) 115A

—S. 126 — Trial of military personnel
 — Determination of venue for — Final
 choice rests with Central Government —
 Discretion of military authority under
 R. 6, not final — No legal hindrance for
 authority to differ from previous order —
 See Army Act (1950), S. 125

(Apr) 115A

Cement Control Order (1967) — Order is
 not beyond the authority conferred on
 Central Government by S. 18G of Indus-
 tries (Development and Regulation) Act
 (1951) and is not based on extraneous
 considerations and is not mala fide —
 The order reintroduced control for secur-
 ing equitable distribution and availability
 at a fair price of cement throughout the
 country — (Industries (Development and
 Regulation) Act (1951), S. 18G)

(Oct) 281A

—Preamble — Order is not a colour-
 able piece of legislation — Colourable
 legislation, what is, stated — Constitu-
 tion of India, Art. 246 (Oct) 281E

—Preamble — Vires of order challeng-
 ed — Matters to be considered stated
 — Order as a whole is not bad

(Oct) 281O

—Cl. 2 (b) — Definition of Controller
 is bad and must be struck down — See
 Industries (Development and Regulation)
 Act (1951) S. 25 (Oct) 281G

Cement Control Order (contd.)

—Cl. 3 — Necessity of permission to
 remove cement outside factory is inci-
 dental to powers conferred by S. 18G of
 Industries (Development and Regulation)
 Act (1951) and does not operate as restric-
 tion — Clause is not ultra vires — Indus-
 tries (Development and Regulation) Act
 (1951), S. 18G (Oct) 281H

—Cl. 4 — Clause does not give arbi-
 trary powers and is not void

(Oct) 281I

—Cl. 7 — Order is not violative of
 Art. 19 (1) (g) and (f) of Constitution —
 See Cement Control Order (1967), Cl. 11
 (Oct) 281D

—Cl. 8, *Proviso 2* — Powers under, to
 obtain Government requirement through
 Directorate General of Supply and Dis-
 posal is not ultra vires the Constitution
 (Oct) 281J

—Cl. 9 — Condition regarding pay-
 ment of excess freight cannot be attack-
 ed by producer of cement (Oct) 281L

—Cl. 9 — Clause does not put pro-
 ducers to any loss — Clause 9 is not bad
 (Oct) 281M

—Cl. 9 (1) as amended by Cl. 2 of
 Cement Control (Amendment) Order, 1968
 — Amended sub-clause (1) and Cl. 2
 of Amendment Order amount to expro-
 priation and are bad (Oct) 281K

—Cls. 11 and 7 — Order does not in-
 fringe the right to carry on trade or
 hold property (Oct) 281D

—Cl. 11 (4) — Sub-clause (4) is not in-
 valid because it allows Government to
 utilise unspent balance in Cement Regu-
 lation Account in accordance with direc-
 tions given by Central Government —
 Balance has to be spent for purposes
 mentioned in Preamble (Oct) 281N

—Cl. 12, Schedule — Constitution of
 India, Art. 14 — Differentiation in fixing
 ex-factory prices of cement — Differen-
 tiation based on rational and logical
 grounds — Order is not discrimina-
 tory and violative of Article 14
 — Clause 12 of the Order indi-
 cates that the different retention prices
 which have been fixed or which may be
 fixed hereafter cannot be arbitrary but
 all the factors relevant for determination
 of prices of cement such as increase or
 decrease in the cost of production or dis-
 tribution are taken into consideration.
 The guiding principles for fixation of ex-
 factory prices are contained in the Order
 itself and it is open to the producers to
 move the Government for altering the ex-
 factory prices whenever an occasion arises
 for the same, regard being had to the
 factors mentioned in Clause 12 of the
 Order — (Constitution of India, Art. 14)

(Oct) 281C

Cement Control Order (contd.)

—Schedule — Order challenged on ground that fixing of varying ex-factory prices was discriminatory — Previous order of 1961 fixing similar varying prices never challenged on this ground by petitioner or anyone similarly situated — Though this does not estop petitioner from challenging 1967 Order, it is a factor that would be taken into consideration against the petitioner (Oct) 281B

Central Sales Tax Act (74 of 1956)

See under Sales Tax.

Citizenship Act (57 of 1955), S. 2 (b) —

Limited Company is not a "Citizen" — See Constitution of India Art. 19

(Oct) 281F

Civil Procedure Code (5 of 1908), Pre. and S. 9 — Statute providing for exclusion of jurisdiction of Civil Court — Rule of interpretation (Jun) 169B (FB)

—Pre. — Interpretation of statutes — Word not defined in Statute — Use of Dictionary in ascertaining the meaning permissible — Regard must however always be had to context — See Advocates Act (1961), S. 24 (1) (c) (iii)

(May) 136

—Pre. — Interpretation of Statutes — Retrospective operation — Agreement providing alteration in surcharge from date of notification — Notification dated August published in September levying surcharge from August — Operation is not retrospective — See Electricity (Supply) Act (1948), S. 49 (Sep) 254C

—Preamble — Interpretation of statutes — Vires of Cement Control Order (1967) challenged — Matters to be considered stated — See Cement Control Order (1967) Preamble (Oct) 281O

—Pre. — Interpretation of Statutes — Presumption against retrospective construction not applicable to enactment which affect procedure and practice of Court — See Motor Vehicles Act (1939), S. 110-F (Dec) 316

—Preamble — Precedents — Obiter dicta — See Constitution of India, Article 141 (Jul) 192B (FB)

—Pre. — Precedents — Obiter dicta of Supreme Court — Nature of binding effect (Sep) 245A

—S. 5 — Applicability of provisions of the Code to writ proceedings — See Constitution of India, Article 226

(Feb) 41

—S. 6 — Partition suit in Court having pecuniary jurisdiction — Valuation of suit property going beyond its jurisdiction by award of Arbitration — Court can pass decree — See Court-fees and Suits Valuations — Suits Valuation Act (1887), S. 11 (Nov) 304A

—S. 11 — Decision of Government under Section 12 (2) of Industrial Dis-

Civil P. C. (contd.)

putes Act — Is an administrative act — It does not operate as res judicata in referring the dispute under Section 10 — Industrial Disputes Act (1947), S. 10

(Mar) 95A

—S. 15 — Partition suit as filed with-in pecuniary jurisdiction of Court — By award in arbitration proceedings relating to dispute valuation of plaintiff's share exceeding pecuniary jurisdiction of Court — Court can pass decree — See Court-fees and Suits Valuations — Suits Valuation Act (1887), Section 11

(Nov) 304A

—S. 33 — Statement contained in judgment — When to be taken to be true — See Civil Procedure Code (5 of 1908), Order 20, Rule 1 (Nov) 304C

—Ss. 100 and 101 — New plea — New plea purely of fact cannot be allowed to be raised for the first time in second appeal — Question whether a document was executed by the executants thereto — Genuineness not challenged in trial Court as well as first appellate Court — Question cannot be allowed to be raised for the first time in second appeal

(Jan) 11A

—S. 100 — Ballot paper — Voter marking on reverse of the same — Question of validity of such paper — Interference in writ proceedings — See Constitution of India, Article 226

(Mar) 92B

—S. 100 — Plea of waiver under Section 113, T. P. Act (1882) — Cannot be raised for first time in second appeal — See Transfer of Property Act (1882), Section 111 (g) (Oct) 264

—S. 115, O. 40, R. 4 and O. 43, R. 1 (s) — Application under Order 40, Rule 4 (c) — No prayer for attachment and sale of receiver's property — Application dismissed — Order of refusal not appealable as it is not one under Order 40, Rule 4 — Revision lies (Apr) 109

—S. 115 — Decision on errors of law concerned with questions of jurisdiction and those which have no such relation or connection — Determination depends on the nature of error — Fulfilment of conditions for grant of injunction — Question as to, has bearing on question of jurisdiction (Aug) 212A

—S. 115 — Scope — High Court can correct only those errors which have relation to the jurisdiction of Court to try the dispute itself — High Court cannot review evidence in its revisional jurisdiction (Oct) 270C

—S. 115, O. 32, R. 7 and O. 39, Rr. 1 and 2 — Compromise decree under O. 32, Rule 7 — Suit by minor to set aside decree and grant of permanent injunction — Application also for issuance of temporary injunction under Order 39, Rr. 1

Civil P. C. (contd.)

and 2 — Application dismissed on the ground that no prima facie case was made out — Revision — Plaintiff in suit merely alleging non-compliance with Order 32, Rule 7 — Held, revision was not maintainable as no question of jurisdiction was involved (Nov) 302

—S. 115 — New point — Objection not taken at any earlier stage of litigation — It could not be allowed to be raised in revision (Nov) 304B

—S. 115 — Stamp Act (1899), Section 35 — Question as to whether document is admissible or not admissible in evidence is matter of procedure and error in deciding question can be corrected in revision (Dec) 313A

—S. 115 — Other remedy open — Order making document inadmissible in evidence under Section 35 Stamp Act — Order making document inadmissible in Order is revisable — See Stamp Duty — Stamp Act (1899), S. 35 (Dec) 313B

—S. 115 (c) — Lower Court exercising jurisdiction illegally and with material irregularity — Statement of plaintiff excluded from evidence on ground that it was recorded after the record of evidence of witness — Exclusion wrong and thus committing error of procedure — Case held fell within ambit of sub-clause (c) and the judgment of lower Court was liable to be interfered with (Jan) 9B

—S. 151 and O. 1, R. 8 — Insurance claim — Insured negligent in defending suit — Right reserved in policy for insurer to defend actions in insured's name — Insurer should be allowed to do so under Section 151 (Dec) 315

—O. 1, R. 1 — Impleading as party — Question generally of judicial discretion — See Civil P.C. (1908), O. 1, R. 10 (2) (May) 131A

—O. 1, R. 1 — Person indebted to several creditors — Agreement by all creditors executed jointly yet debts for each shown separate — Separate suits maintainable — See Contract Act (1872), Section 45 (Oct) 278B

—O. 1, R. 8 — Applicability — Debts of 56 creditors to same person specified separately in agreement relating to such debts — Separate suit by each creditor — Order 1, Rule 8, not applicable — Some creditors not impleaded — Suits not maintainable (Oct) 278C

—O. 1, R. 8 — Insurance claim — Insured negligent in defending suit — Right reserved in policy for insurer to defend actions in insured's name — Insurer should be allowed to do so under Section 151 — See Civil P. C. (1908), Section 151 (Dec) 315

—O. 1, Rr. 10 (2), 1 and O. 2, R. 3 — Suit for ejectment — Application, at very late stage, by third party claiming

Civil P. C. (contd.)

title, to be impleaded as party — Question generally of judicial discretion — Categories of cases explained (May) 131A

—O. 1, R. 10 (2) — Landlord and tenant — Defendant inducted into possession of suit property by plaintiff — No question of third party setting up title to suit property can arise — See Evidence Act (1872), Section 116 (May) 131B

—O. 1, R. 10 (2) — Suit for ejectment — Application by third party to be impleaded, made at very late stage causing doubts about his bona fides — Multiplicity of enquiries can be avoided by a separate suit — High Court will not interfere in rejection of his application by lower Court (May) 131C

—O. 1, R. 10 (2) — Party not impleaded merely to see if the suit is properly defended — Party also had no legal interest in the subject matter of the suit (Sep) 252

—O. 2, R. 3 — Impleading third party — Question generally of judicial discretion — See Civil P. C. (1908), O. 1, R. 10 (2) (May) 131A

—O. 6, R. 2 — Plea of right of privacy — Use of word "bapardgi" in plaint is sufficient to sustain it — Where well-known custom exists, it is not necessary to set up existence of customary right in any great detail or with particular emphasis (Jan) 31A

—O. 9, R. 8 — Election petition — High Court has power to dismiss election petition for non-appearance of petitioner — See Representation of the People Act (1951), S. 87 (Mar) 75B

—O. 9, R. 9 — Can be applied to writ proceedings — See Constitution of India, Art. 226 (Feb) 41

—O. 16, R. 1 (Rajasthan) — When witness summons may be applied for — Period prescribed under Rajasthan High Court Amendment — Court has power to extend for sufficient cause — It is special law within Section 29 (2) of Limitation Act (1963) — Section 5 of Limitation Act (1963) applies to it (Nov) 299A

—O. 17, R. 3 — Dismissal of election petition — Mere fact that case did not fall under O. 17, R. 3 does not mean that the decision was not on merits — See Representation of the People Act (1951), S. 87 (Mar) 75A

—O. 18, R. 2 (4) (Rajasthan) — Statement of witness recorded before that of plaintiff — Presumption of permission of Court to do so — When arises (Jan) 9A

—O. 20, Rr. 1, 4 and 5 and S. 33 — Statement in judgment of District judge that no other point except that of jurisdiction, was argued before him — No affidavit by counsel appearing before District Judge nor of petitioner himself fil-

Civil P. C. (contd.)

ed, alleging that any other point was argued and that statement in judgment is erroneous — Held that in these circumstances, the statement contained in the judgment must be taken to be true

(Nov) 304C

—O. 20, R. 4 — Statement contained in judgment — When to be taken to be true — See Civil Procedure Code (5 of 1908), O. 20, R. 1 (Nov) 304C

—O. 20, R. 5 — Statement contained in judgment — When to be taken to be true — See Civil Procedure Code (5 of 1908), O. 20 R. 1 (Nov) 304C

—O. 21, R. 2 — Applicability — Payment or adjustment out of Court after property has been sold in execution of mortgage decree — O. 21, R. 2 has no application (Oct) 270A

—O. 21, R. 54 — Attachment of property by Criminal Court — Temporary injunction by Civil Court respecting same property — Subsequent appointment of Receiver by Criminal Court — Validity of appointment — See Criminal P. C. (1898), S. 145 (4) (Mar) 82A

—O. 21, R. 89 and R. 90 — Scope — Remedy under R. 89 and R. 90 cannot be pursued simultaneously — Application under O. 21, R. 90 has to be withdrawn on making application under O. 21, R. 89 (Oct) 270D

—O. 21, R. 90 — Remedy under — Cannot be pursued simultaneously with remedy under R. 89 — See Civil P. C. (1908), O. 21, R. 89 (Oct) 270D

—O. 32, R. 7 — Suit by minor to set aside compromise decree and grant of permanent injunction — Application also for temporary injunction — Dismissal of application — Plaint in suit merely alleging non-compliance with O. 32, R. 7 — Revision not maintainable as no question of jurisdiction involved — See Civil P. C. (1908), S. 115 (Nov) 302

—O. 34, R. 5 — Scope — Payment in Court — Provision is imperative — Judgment debtor cannot take advantage of the provisions of O. 34, R. 5 by relying upon satisfaction out of Court (Oct) 270B

—O. 39, R. 1 — Temporary injunction in respect of property, attached by Criminal Court — Subsequent appointment of Receiver — Validity — See Criminal P. C. (1898), S. 145 (4) (Mar) 82A

—O. 39, R. 1 — Suit by minor to set aside compromise decree and grant of permanent injunction — Application also for temporary injunction — Application dismissed — Revision — Plaint in suit merely alleging non-compliance with O. 32, R. 7 — Revision not maintainable as no question of jurisdiction involved — See Civil P. C. (1908), S. 115 (Nov) 302

—O. 39, R. 2 — Suit by minor to set aside compromise decree and grant of

Civil P. C. (contd.)

permanent injunction — Application also for temporary injunction — Application dismissed — Revision — Plaint in suit merely alleging non-compliance with O. 32, R. 7 — Revision not maintainable as no question of jurisdiction involved — See Civil P. C. (1908), S. 115 (Nov) 302

—O. 40, R. 4 — Order of refusal under — Appealability — See Civil P. C. (1908), S. 115 (Apr) 109

—O. 41, R. 10 — Appeal to set aside ex parte decree — District Judge making conditional order on payment of costs of opposite party within 30 days in the Court of Civil Judge — Payment made to Court of District Judge — Held such payment was not proper compliance though the error was condonable for reasons of bona fides (Apr) 112B

—O. 43, R. 1 (s) — Order of refusal of application under O. 40, Rule 4 (c) — Appealability — See Civil P. C. (1908), S. 115 (Apr) 109

CIVIL SERVICES

—Rajasthan Civil Service Rules, 1951, Rule 20 — Applicability — Workmen employed in an industry run by State cannot be transferred to a department not an industry (Mar) 68B

Constitution of India, Art. 5 — Citizenship rights — Only to Citizen of India — Limited Company is not citizen — See Constitution of India, Art. 19 (Oct) 281F

—Art. 14 — Enrollment as Advocate — Bar Council has ample power to prescribe the class or category of persons entitled to be enrolled — Categorisation made in the Resolution does not violate Art. 14 — See Advocates Act (1961), S. 24 (1) (c) (iii) (May) 136C

—Art. 14 — S. 104 of Rajasthan Municipalities Act, 1959 is not void as violating Art. 14 — See Municipalities — Rajasthan Municipalities Act (1959), S. 104 (May) 146A

—Art. 14 — Imposition of taxes — Local differences in taxes can be allowed, but they cannot be allowed to be outrageous — See Municipalities — Rajasthan Municipalities Act (1959), S. 104 (May) 146B

—Article 14 — Validity of executive order of Government acting under provisions of taxing statute challenged on the ground of discrimination — Initial burden is on petitioner to show how discrimination is brought about — But where persons similarly situated are subjected to differential treatment, it would be open to State to establish that differentiation is based on a rational object sought to be achieved by Legislature (May) 146C

Constitution of India (contd.)

—Art. 14 — Discrimination — Reservation of seats in Medical Colleges — Reasonableness — Tests (Jul) 182A

—Art. 14 — Cement Control Orders (1961) and of (1967) — Different prices of cement on ex-factory basis — No objection taken to discrimination under 1961 Order — Though Writ could be filed that fact would be considered — See Cement Control Order (1967) Schedule

(Oct) 281B

—Art. 14—Cement Control Order (1967) not violative of Art. 14 for discrimination — See Cement Control Order (1967), Cl. 12 (Oct) 281C

—Art. 19 — Enrolment as Advocate — Bar Council has ample power to prescribe the class or category of persons entitled to be enrolled — Categorisation made in the Resolution neither arbitrary nor unreasonable — Resolution not violative of Art. 19 — See Advocates Act (1961), S. 24 (1) (c) (iii) (May) 136

—Arts. 19 and 5 — Fundamental rights are granted only to a citizen of India — A limited company registered under Companies Act, 1956, is not a citizen within meaning of Art. 19 and cannot invoke that Article — Citizenship Act (1955), S. 2 (b) (Oct) 281F

—Art. 19 — Cement Control Order (1967), Cl. 8, Proviso 2 — Not ultra vires under Art. 19 — See Cement Control Order (1967), Cl. 8 (Oct) 281J

—Art. 19 (1) (f), (5) — Easements Act (1882), S. 18, Illustration (b) — Constitutional validity (Jan) 31C

—Art. 19 (1) (g), (f) — Cement Control Order (1967), does not violate either sub-clause (g) or (f) Art. 19 (1) — See Cement Control Order (1967), Cl. 11

(Oct) 281D

—Art. 31 — Cement Control Order (1967) (as amended in 1968) — Amended sub-section (1) of S. 9 amounts to expropriation and hence bad — See Cement Control Order (1967), Cl. 9 (1) (as amended by Cl. 2 of Cement Control Amendment) Order 1968 (Oct) 281K

—Art. 141 — Obiter dicta of Supreme Court is also the law declared by Supreme Court (Jul) 192B (FB)

—Art. 141 — Ruling, Obiter dicta and casual expression of opinion unconnected with point arising — When expression of opinion is binding — See Civil P. C. (1908), Pre. (Sep) 245A

—Art. 166 — Rules of Business (Government of Rajasthan), Rr. 5 and 21 — Rajasthan Minor Mineral Concession Rules (1959), R. 46 — Appeal under, heard by Secretary but disposed of by Minister-in-charge — Invalid — Deputy Minister, who is not allotted any business of Department, not competent to clothe Secretary with authority to dispose of

Constitution of India (contd.)

case — (Constitution of India, Art. 226 — Natural Justice) (May) 129

—Art. 166 — Rules under S. 68-I Motor Vehicles Act — Hearing of objection to Scheme by State Government — Function is quasi-judicial — Delegation of function to Joint Legal Remembrancer valid under Art. 166 — See Motor Vehicles Act (1939), S. 68-D (Aug) 233A

—Art. 226 — Writ proceedings — Proceedings are Civil Proceedings — Even though provisions of Civil P. C. may not directly apply, such of the provisions as are not in conflict with Rajasthan High Court Rules can apply — Provisions of O. 9, R. 9 can be applied (Feb) 41

—Article 226 — Complicated questions of fact cannot be determined — Employees of Government of Rajasthan Transport Department on formation of State Roadways Transport Corporation claiming to be employees of the Corporation and hence claiming to be not amenable to orders of transfer by State Government — Question whether such employees were workmen employed in the industry namely of providing transport or whether they continued to be Government servants, held, could not be decided in writ proceedings — Proper forum was Tribunal under Industrial Disputes Act (Mar) 68A

—Art. 226 — Certiorari — Grounds — Question of law — Voter marking on reverse of ballot paper — Question of validity of such paper — Interference in writ valid — (Civil P. C. (1908), S. 100 — Question of Law) — (Panchayats — Rajasthan Panchayat and Nyaya Panchayat Election Rules (1960), R. 30)

(Mar) 92B

—Art. 226 — Natural justice — Opportunity of being heard — Industrial Disputes Act (1947), S. 10 (Mar) 95C

—Art. 226 — Natural Justice — See Constitution of India, Art. 166

(May) 129

—Art. 226 — Mixed question of law and fact — High Court cannot determine question in its extraordinary jurisdiction under the Article — See Constitution of India, Art. 286 (1) (b) (Jun) 162B

—Art. 226 — Prohibition — Writ application for — When to be filed — Sales tax matter — See Sales Tax — Rajasthan Sales Tax Act (29 of 1954), S. 12

(Jun) 162C

—Art. 226 — Motor Vehicles Act (1939), Ss. 57 (3), 45 — Grant of permit to A in preference to B — Failure of B to make representation earlier against A under S. 57 (3) — B's locus standi to challenge permit in writ petition is unaffected (Jun) 173B

—Art. 226 — Other remedy availed of — Effect on writ proceeding — See

Constitution of India (contd.)

Motor Vehicles Act (1939), S. 48 (1) (Jun) 173C

—Art. 226 — Allegation of fraud or misrepresentation in obtaining a permit under Motor Vehicles Act — Proper remedy lies under S. 60 (1) (d) of that Act and not by filing writ petition — See Motor Vehicles Act (1939), S. 60 (1) (d) (Jun) 173D

—Art. 226 — Order of Executive Authority — Justiciability (Jul) 182C

—Art. 226 — Consequential order — Reservation of seats in Medical Colleges for particular classes — Reservation held invalid — It would not be proper to non-seat the candidates against the reserved quota who had already been admitted and had paid fees (Jul) 182D

—Art. 226 — Administrative or domestic tribunal — Procedure to be followed — Principles of natural justice — Opportunity of hearing, what is — It is not essential that an opportunity of oral hearing should be given or arguments should be heard — Proceedings not vitiated merely on that ground (Aug) 233C

—Art. 226 — Cement Control Orders (1961) and of (1967) — Different prices of cement on ex-factory basis — No objection taken to discrimination under 1961 Order — Though writ could be filed that fact would be considered — See Cement Control Order (1967), Schedule (Oct) 281

—Art. 245 — S. 104 of Raj. Municipalities Act 1959 not void for excessive delegation — See Municipalities — Rajasthan Municipalities Act (1959), S. 104 (May) 146A

—Art. 245 — Delegation only to officer or to an authority — Delegation to Trading Corporation is illegal — Corporation is neither person nor authority — See Industries (Development and Regulation) Act (1951), S. 25 (Oct) 281G

—Art. 246 — Cement Control Order (1967) — Not a colourable piece of legislation — Colourable legislation, what is stated — See Cement Control Order (1967), Preamble (Oct) 281E

—Art. 265 — State Electricity Board can increase rates in Tariffs or levy surcharge — See Electricity (Supply) Act (1948), S. 49 (Sep) 254A

—Art. 271 — State Electricity Board can increase rates in Tariffs or levy surcharge — See Electricity (Supply) Act (1948), S. 49 (Sep) 254A

—Art. 286 — S. 5-A of the Raj. Sales Tax Act (29 of 1954), is not ultra vires of Arts. 286, 301 and 304 — See Sales Tax — Rajasthan Sales Tax Act (29 of 1954), S. 5-A (Jun) 162A

—Arts. 286 (1) (b) and 226 — Central Sales Tax Act (1956), S. 5 — Question

Constitution of India (contd.)

whether transaction was made in course of export of goods out of territory of India is mixed question of fact and law — High Court cannot determine question in its extraordinary jurisdiction under Art. 226 (Jun) 162B

—Art. 301 — S. 5-A of Raj. Sales Tax Act (Raj. Act 29 of 1954) is not ultra vires of Arts. 301, 286 and 304 — See Sales Tax — Rajasthan Sales Tax Act (29 of 1954), S. 5-A (Jun) 162A

—Art. 304 — S. 5-A of Raj. Sales Tax Act (Raj. Act 29 of 1954) is not ultra vires of Arts. 286, 301 and 304 — See Sales Tax — Rajasthan Sales Tax Act (29 of 1954), S. 5-A (Jun) 162A

—Art. 363 — Scope — Bar to jurisdiction of civil courts — Nature of — Emphasis is not on parties to dispute but on nature of dispute — Possibility of illusory defence being raised to invoke bar under the article — Whether Court can undertake preliminary investigation in nature of dispute (Feb) 52

Contract Act (9 of 1872), S. 23 — Transfer of Motor vehicle permit without permission of Transport Authority — Transfer being forbidden by law is unlawful under the section — See Motor Vehicles Act (1939), S. 59 (1) (May) 155

—S. 25 — Acknowledgment containing promise to pay even by implication — Creates new cause of action — AIR 1951 Raj 748, AIR 1956 Raj 12, **Overruled** AIR 1952 Raj 7 (FB) **Dissented** — See Limitation Act (1963), S. 19 (Jul) 192A (FB)

—S. 25 (3) — Applicability — Provisions apply only if there is express promise to pay (Jul) 192C (FB)

—S. 39 — New agreement substituting old one — Agreement not relating merely to mode of payment — First part of agreement acted upon by promisors — Second part not fulfilled — Promisees cannot repudiate whole agreement (Oct) 278A

—S. 45 — Debts of several creditors to same person specified separately in agreement relating to such debts — Agreement executed jointly by creditors — Yet each to take his share — Separate suit by each creditor — Suits maintainable (Oct) 278B

—S. 45 — Debts of 56 creditors to same debtor — Specified separately in joint agreement relating to debts — Suit by one creditor — Some creditors not impleaded — Suit not maintainable — See Civil P. C. (1908), O. 1, R. 8 (Oct) 278C

—S. 65 — Restitution — Benefit of section not available where transfer is illegal to the knowledge of parties — See Motor Vehicles Act (1939), S. 59 (1) (May) 155

COURT-FEES AND SUITS VALUATIONS

—Suits Valuation Act (7 of 1887), S. 11—
 Scope — Partition suit as filed by plaintiff found to be within pecuniary jurisdiction of Court — Matter referred to arbitrators — According to award valuation of plaintiff's share coming to be more than Rs 10,000 i.e. beyond pecuniary jurisdiction of Court — Whether Court could pass decree in terms of award — Held that Court could pass decree

(Nov) 304A

Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules (1952),

R 5 — Trial of military personnel — Determination of venue for — Final choice rests with Central Government — Discretion of military authority under R. 6, not final — No legal hindrance for authority to differ from previous order — See Army Act (1950), S. 125

(Apr) 115A

—R. 6 — Trial of military personnel — Determination of venue for — Final choice rests with Central Government — Discretion of military authority under R. 6, not final — No legal hindrance for authority to differ from previous order — See Army Act (1950), S. 125

(Apr) 115A

—R 8 — Trial of military personnel — Determination of venue for — Final choice rests with Central Government — Discretion of military authority under R. 6, not final — No legal hindrance for authority to differ from previous order — See Army Act (1950), S. 125

(Apr) 115A

—R. 8— Trial of military personnel by Criminal Court — Central Government according sanction for — Interference by military authority — Illegal — See Criminal P. C. (1898), S. 549

(Apr) 115B

—R 9 — Trial of military personnel — Determination of venue for — Final choice rests with Central Government — Discretion of military authority under R. 6, not final — No legal hindrance for authority to differ from previous order — See Army Act (1950), S. 125 (Apr) 115A

—R. 9 — Trial of military personnel by Criminal Court — Central Government according sanction for — Interference by military authority — Illegal — See Criminal P. C. (1898), S. 549 (Apr) 115B

Criminal Procedure Code (5 of 1898), S. 4
 (1) (f) — Complaint under Section 198-B — Transfer of case — Charge of case handed over to another prosecutor — Such prosecutor must be deemed to be complainant — See Criminal P. C. (1898), Section 198-B

(Feb) 61A

—S. 145 (4) — Scope — Property attached under Section 145 (4) — Later, temporary injunction issued by civil

Criminal P. C. (contd.)

Court in respect of same property — Subsequently, Magistrate appointing Tehsildar as Receiver — Appointment is valid — (Civil P. C. (1908), Order 39, Rule 1, Order 21, Rule 54)

(Mar) 82A

—S. 145 (4) — Attachment of property under — Appointment of Receiver — Not challenged within time prescribed — Cannot be challenged in revision against appointment — See Criminal P. C. (1898), Section 439

(Mar) 82B

—S. 165 — Provision mandatory — Non-compliance fatal — See Penal Code (1860), Section 99

(Apr) 121

—S. 177 — Property entrusted at 'B' misappropriated at place 'J' = Offence of receiving stolen property by another also at J — Receiver cannot be tried at place B — See Criminal P. C. (1898), Section 239 (e)

(Oct) 266

—S. 178 — Entrustment of property at place B — Offence of Cr. breach of trust in its respect committed at place J — Another person receiving stolen property at 'J' — Trial of receiver not possible at B under Section 178 — See Criminal P. C. (1898), Section 239 (e)

(Oct) 266

—S. 179 — Property entrusted at place 'B' — Offence of Cr. breach of trust in its respect at place J — Offence of receiving stolen property also at J in respect of same — Receiver cannot be prosecuted at B under Sections 179, 180, 181, 182 — See Criminal P. C. (1898), Section 239 (e)

(Oct) 266

—S. 180 — Property entrusted at place 'B' — Offence of Cr. breach of trust in its respect at place J — Offence of receiving stolen property also at J in respect of same — Receiver cannot be prosecuted at B under S. 180 — See Criminal P. C. (1898), Section 239 (e)

(Oct) 266

—S. 181 — Property entrusted at place 'B' — Offence of Cr. breach of trust in respect at place J — Offence of receiving stolen property also at J in respect of same — Receiver cannot be prosecuted at B under Section 181 — See Criminal P. C. (1898), Section 239 (e)

(Oct) 266

—S. 181 (2) — Place of trial — Sec. 239 extends jurisdiction of Court beyond that provided in Section 181 (2) — See Criminal P. C. (1898), Section 239 (e)

(Oct) 266

—S. 182 — Property entrusted at place B, misappropriated at place J — Offence under Section 411, Penal Code in respect of same property at J — Receiver cannot be prosecuted at B — See Criminal P. C. (1898), Section 239 (e)

(Oct) 266

—Ss. 198-B, 4 (1) (b), 4 (1) (f), 259, 270, 492 — Complaint under S. 198-B —

Criminal P. C. (contd.)

Transfer of case — Charge of case handed over to another Public Prosecutor — Such Prosecutor must be deemed to be 'complainant' (Feb) 61A

—S. 198-B — Complaint under — Court's discretion as to discharge in absence of the complainant — See Criminal P. C. (1898), Section 259 (Feb) 61B

—S. 198-B — Complaint under — Aggrieved person not required to sign nor his presence necessary as a complainant (Feb) 61C

—Ss. 239 (e), 181(2), 177, 178, 179, 180, 181 and 182 — Scope of Section 239 (e) — Offences under Sections 406 and 411, Penal Code — Property handed over to accused at Bikaner — Criminal breach of trust committed at Jaipur — Such property received by another in Jaipur — Such person charged with offence under Section 411, Penal Code — Both can be tried together at Bikaner (Oct) 266

—S. 252 — Duty of Magistrate under Section 252 — See Criminal P. C. (1898), Section 253 (2) (Oct) 276

—Ss. 253 (2), 252 and 259 — Scope — Complaint for offences under Sections 457, 341, 380 and 114 of Penal Code — Complaint dismissed for absence of complainant — Absence due to reasonable cause — Accused discharged under Section 253 (2) — Discharge illegal (Oct) 276

—S. 259 — Complainant — Who is — See Criminal P. C. (1898), Section 198-B (Feb) 61A

—Ss. 259 and 198-B — Complaint under Section 198-B — Court has ample discretion to discharge or not to discharge accused in absence of complainant, Public Prosecutor — Refusal to discharge does not necessarily make his order illegal (Feb) 61B

—S. 259 — Offences non-compoundable and cognizable — Section 259 does not apply — See Criminal P. C. (1898), Section 253 (2) (Oct) 276

—S. 270 — Complainant — Who is — See Criminal P. C. (1898), Section 198-B (Feb) 61A

—S. 367 — Appreciation of evidence — Weapons recovered not sent to ballistic expert — Recovery does not link accused with crime — See Penal Code (1860), Section 302 (Aug) 219A

—S. 367 — Motive — Absence of proof of motive — Effect of — See Penal Code (1860), Section 40 (Aug) 219B

—S. 367 — Appreciation of evidence — Relationship of witness to deceased — Effect on reliability — See Evidence Act (1872), Section 3 (Aug) 219D

—Ss. 417, 423 — Appeal against acquittal — High Court can accept evidence disbelieved by lower Court (Mar) 86C

Criminal P. C. (contd.)

—S. 417 (3) — Acquittal — Appeal by Municipal Council, against acquittal of accused in a complaint under Sec. 20 of Food Adulteration Act by its Chairman, is maintainable — See Municipalities — Rajasthan Municipalities Act (38 of 1959), Section 67 (d) (Jan) 16A

—S. 423 — Appeal against acquittal — Powers of High Court same as in appeals against conviction — See Criminal P. C. (1898), Section 417 (Mar) 86C

—Ss. 439 and 145 (4) — Property attached under Section 145 (4) — Subsequently Receiver appointed — Attachment order not challenged within prescribed time — Revision against such appointment — Question of emergency at the time of ordering attachment cannot be canvassed (Mar) 82B

—S. 488 — Maintenance order in favour of wife — Order not ipso facto extinguished by subsequent decree obtained by the husband for restitution of conjugal rights — See Criminal P. C. (1898), Section 489 (2) (Jan) 29

—Ss. 489 (2) and 488 — Maintenance order in favour of wife — Husband subsequently obtaining decree for restitution of conjugal rights — Right to maintenance not ipso facto extinguished by decree (Jan) 29

—S. 492 — Complainant — Who is — See Criminal P. C. (1898), S. 198-B (Feb) 61A

—S. 549 — Trial of military personnel — Determination of venue for — Final choice rests with Central Government — Discretion of military authority under Rule 6, not final — No legal hindrance for authority to differ from previous order — See Army Act (1950), S. 125 (Apr) 115A

—S. 549 — Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules (1952), Rules 8, 9 — Trial of military personnel by Criminal Court — Central Government according sanction for — Interference by military authority — Illegal (Apr) 115B

DEBT LAWS

—Rajasthan Relief of Agricultural Indebtedness Act (28 of 1957), S. 6 (1) — Term 'debt' — It would as much include decretal debts as those debts in respect of which no decree has already been passed (Apr) 123C (FB)

—S. 7 — Term 'creditors' — It would include decree-holders also (Apr) 123B (FB)

—S. 10 — Jurisdiction conferred on Debt Relief Court — Nature of — It can to certain extent disturb decree or order of Civil Court (Apr) 123A (FB)

Easements Act (5 of 1882), S. 2 (b) — Right of privacy — Nature — Proof —

Easements Act (contd.)

See Easements Act (1882), Section 18, Illustration (b) (Jan) 31B
 —S. 18, Illustration (b), S. 2 (b) — Right of privacy — Nature of — Proof — Held, customary rights of privacy existed in Jaipur — AIR 1929 All 676, Dissent. from. — AIR 1963 All 340, Held obiter and Dissent. from. (Jan) 31B
 —S. 18, Illus. (b) — Right of privacy — Constitutional validity of — See Constitution of India, Art. 19 (1) (f), (5) (Jan) 31C

EDUCATION

—Rajasthan University Act, Statute 26 (4) — Powers of Government to prescribe conditions for admission (Jul) 182B

Electricity (Supply) Act (54 of 1948),

S. 49 — Constitution of India, Arts. 265 and 271 — State Electricity Board can increase rate in 'Tariffs' or levy surcharge — 'Surcharge', meaning of — 'Surcharge' is additional price for consumption of electrical energy and is neither a tax nor a fee — Tax and fee, distinction pointed out — Words and Phrases — 'Surcharge' 'tax' and 'fee' (Sep) 254A

—Ss. 49, 59 — State Electricity Board running into heavy losses on account of rises in cost of production and increase in expenses — In order to tide over the difficulty which was beyond control, the Board instead of introducing a revised tariff introduced a general surcharge for all consumers of 10 per cent and 15 per cent according to different categories of consumers — Held, imposition of surcharge was neither arbitrary nor unreasonable (Sep) 254B

—Ss. 49, 59 — Imposition of surcharge — Notification dated 26-7-1966 levying surcharge published in State Gazette dated 3-8-1966 — Notification mentioning that surcharge to be added in bills issued during September 1966 commencing from August 1966 — It cannot be said that surcharge has been levied retrospectively — Further when the agreement between Board and consumers provided that altered rates would be effective from date fixed in notification it could not be contended that it was levied retrospectively — Civil P. C. (1908), Pre. — Interpretation of Statutes — Retrospective operation (Sep) 254C

—S. 49 — 'Tariffs' issued by Board — Fuel adjustment clause — Applicable not only to areas fed by steam stations but also to areas fed mainly from hydel and steam stations — Hence it would be applicable to consumers getting supply of electricity mainly from hydel station (Sep) 254D

—Ss. 49, 59 — Notification levying surcharge mentioning that surcharge will be levied on consumption charges of

Electricity (Supply) Act (contd.)

electricity — Fuel surcharge is a part of consumption charge — Hence there is nothing wrong in calculating surcharge on fuel charges (Sep) 254E

—S. 49 — Tariff for supply of electricity — 'Large Industrial Loads' — Two part rates — Method of charging indicated — Surcharge can be levied on demand charges as well as Energy charges (Sep) 254F

—S. 59 — Increase in surcharge to balance increased costs of production — Different rates for different classes not unreasonable — See Electricity (Supply) Act (1948), Section 49 (Sep) 254B

—S. 59 — Agreement providing alteration in surcharge from date of notification — Notification dated August published in September levying surcharge from August — Operation is not retrospective — See Electricity (Supply) Act (1948), Section 49 (Sep) 254C

—S. 59 — Surcharge on consumption charge of electricity — Fuel surcharge is part of consumption charge and is leviable — See Electricity (Supply) Act (1948), Section 49 (Sep) 254E

Evidence Act (1 of 1872), S. 3 — Right of privacy — Nature of — Proof — See Easements Act (1882), Section 18, Illustration (b) (Jan) 31B

—S. 3 — Appreciation of evidence — Weapons recovered not sent to ballistic expert — Recovery does not link accused with crime — See Penal Code (1860), Section 302 (Aug) 219A

—S. 3 — Credibility of witness — Relationship — Not enough to disbelieve — Corroboration required of such witness how far necessary — (Criminal P. C. (1898), Section 367) (Aug) 219D

—S. 8 — Motive — Absence of proof of motive — Effect of — See Penal Code (1860), Section 40 (Aug) 219B

—S. 13 — Right of privacy — Nature — Proof — See Easements Act (1882), Section 18, Illustration (b) (Jan) 31B

—S. 25 — Statements made before Customs Officials — Not hit by Sec. 25 (Feb) 48C

—S. 57 — Right of privacy — Nature of — Proof of custom — See Easements Act (1882), Section 18, Illustration (b) (Jan) 31B

—S. 80 — Conviction based on statement made under Section 171-A — Recording of statement in English — Failure to interpret it to illiterate accused — Conviction improper — See Sea Customs Act (1878), Section 171-A (Feb) 48A

—S. 90 — Ministerial act of physically signing the document left to other persons — Question of presumption is to be decided on facts (Jan) 11B

Evidence Act (contd.)

—S. 114, Illustration (g) — Withhold-
ing evidence — Duty of Court — Cir-
cumstances when adverse inference can-
not be drawn (Aug) 219E

—S. 115 — Interpretation of document
is question of law and there can be no
estoppel in such matters (Jan) 22B

—S. 115 — Cement Control Order
(1961) fixing different ex factory prices —
Cement Control Order (1967), also hav-
ing different prices — Non-challenge of
previous order does not estop person
challenging subsequent order — See
Control Order (1967), Schedule (Oct) 281B

—S. 116 — Contractual relation of
landlord and tenant — Defendant induct-
ed into possession of suit property by
plaintiff — No question impleading third
party setting up title to suit property can
arise — Civil P. C. (1908), O. 1, R. 10 (2)
(May) 131B

—S. 137 — Omission to cross-examine
witness — Effect — Testimony of wit-
ness cannot be disputed (Aug) 219C

HIGH COURT RULES AND ORDERS

—Rajasthan High Court Rules, R. 382 —
Writ proceedings are civil proceedings —
Even though provisions of Civil P. C.
may not directly apply to them, such of
the provisions as are not in conflict with
Rajasthan High Court Rules can apply
— Provisions of Order 9, Rule 9 can be
applied — See Constitution of India,
Article 226 (Feb) 41

Hindu Marriage Act (25 of 1955), S. 24 —
Order under Section 24, is appealable —
See Hindu Marriage Act (1955), S. 28

(Sep) 253
—S. 25 — Order under S. 25 is appeal-
able — See Hindu Marriage Act (1955),
Section 28 (Sep) 253

—S. 26 — Order under Section 26 is
appealable — See Hindu Marriage Act
(1955), Section 28 (Sep) 253

—Ss. 28, 24, 25 and 26 — Appeal —
Orders under Sections 24, 25 and 26
appealable though language of Sec. 28 is
undoubtedly not happy (Sep) 253

Income Tax Act (11 of 1922), S. 10 (2)
(xv) — Lump sum paid voluntarily to
managing agents who were entitled to
commission on profits in recognition of
their part services and sacrifices — Not
allowable deduction under S. 10 (2) (xv)
(May) 142A

—S. 66 (1) — Advisory jurisdiction —
New case — In the exercise of its advi-
sory jurisdiction, High Court will not
allow development of a case on al-
together new lines (May) 142B

Industrial Disputes Act (14 of 1947), S. 2
(s) — Question whether employees of

Industrial Disputes Act (contd.)

Government of Rajasthan Transport
Department on formation of S. R. Cor-
poration were workmen employed in
transport industry or whether they con-
tinued to be Government servants —
Proper forum to decide was Tribunal
under the Industrial Disputes Act — See
Constitution of India, Art. 226 (Mar) 68A

—S. 2 (j) — 'Industry' — Determina-
tion (Mar) 68C

—Ss. 2 (k), 10 — Termination of em-
ployee's services — Immediately employee
moving Conciliation Officer challenging
termination and requesting reinstatement
— Employer opposing reinstatement —
Industrial dispute held had been raised
— Government could make reference
under Section 10 (Mar) 95D

—S. 10 — Whether employees of
S. T. R. Corporation were workmen or
whether they continued to be Govern-
ment servants — Proper forum to decide
is Tribunal under Industrial Disputes Act
— See Constitution of India, Art. 226
(Mar) 68A

—Ss. 10, 12 (5) — Order of Government
under Section 12 (5) refusing to refer dis-
pute — Government can supersede the
order and make reference under Sec-
tion 10 — Orders under Sections 12 (5)
and 10 are administrative orders —
(Constitution of India, Article 226 —
Administrative order) — (Civil P. C.
(1908), Section 11) — AIR 1966 Punj 354,
Dissented from (Mar) 95A

—Ss. 10, 12 (5) — Order under S. 12 (5)
on report of Conciliation Officer, refusing
to make reference of dispute between
employer and employee — Representation
of employee requesting Government to
reconsider matter and refer the dispute
for adjudication to meet ends of justice
— Government referring matter under
Section 10 without giving opportunity to
employer to be heard — Order held was
not illegal and invalid as violating princi-
ples of natural justice, since the em-
ployer had made detailed representation
before Conciliation Officer regarding all
the points raised by employee and the
employee had not raised any new
material in representation to Government
to reconsider the previous decision —
Government held not bound to give
notice to the parties or to hear them be-
fore making order of reference — (Con-
stitution of India, Article 226 — Natural
justice — Opportunity to be heard) —
(Natural Justice) (Mar) 95C

—S. 10 — Termination of employee's
services — Employee challenging order
of termination before Conciliation Officer
— Employer opposing reinstatement —
Industrial dispute held raised — Govern-
ment could make reference under S. 10
— See Industrial Disputes Act (1947),
S. 2 (k) (Mar) 95D

Industrial Disputes Act (contd.)

—Ss. 10 (1), 12 (5) — Order of reference may not give reasons — Satisfaction of Government is the only condition precedent — Fact that reasons were given for refusing to make reference under S. 12 (5) does not make it necessary to give reasons for reference under S. 10, made subsequently

(Mar) 95B

—S. 12 (5) — Reference under S. 10 after refusal to refer under S. 12 (5) giving reasons for it — Necessity of giving reasons for the subsequent reference — See Industrial Disputes Act (1947), S. 10 (1) (Mar) 95B

(1) —S. 12 (5) — Reference under S. 10 subsequent to refusal under S. 12 (5) — Validity of — See Industrial Disputes Act (1947), S. 10 (Mar) 95C

—S. 13 — Question whether employees were workmen or whether they continued to be Government servants — Proper forum to decide the question — See Constitution of India, Art. 226

—S. 18 — Appointment of Labour Court
in contravention of statutory provisions
— Objection to appointment can be allowed
in writ petition against its award —
See Constitution of India, Art. 226

—S. 25-FF — Workmen employed in an industry run by State Government cannot be transferred to a department not an industry — See Rajasthan Civil Service Rules (1951), R. 20 (Mar) 68B

Industries (Development and Regulation)

Act (65 of 1951), S. 18-G — Cement Control Order (1967), is within the authority conferred on Central Government — See Cement Order (1967) (Oct) 281A

—S. 18-G — Permission to remove
Cement outside factory under Cl. 3 of
Cement Control Order (1967) — Per-
mission only incidental to powers under
S. 18-G — See Cement Order (1967), Cl. 3
(Oct) 281H

—S. 25 — Under Act power of Central

Government can be delegated only to an officer or an authority — Delegation to Cement Corporation of India which is a trading corporation is ultra vires, the Corporation being neither an office nor an authority — Definition of Controller in Cl. 2 (b) of Cement Control Order is bad and must be struck down

(Oct) 281G

Jaipur Easements Act (6 of 1943), S. 18 — Held that customary rights of privacy existed in Jaipur — See Easements Act (1882), S. 18 Illustration (b) (Jan) 31B

Limitation Act (9 of 1908), S. 4 — Order by District Judge to deposit costs of opposite party within 30 days of order — Last day being public holiday deposit

Limitation Act (1908) (contd.)

made on next working day — Should be
deemed to have been made within time
(Apr) 112A

—S. 5 — Legislative changes — Under old Act of 1908, S. 5 was applicable to applications to which it was made applicable by or under any enactment in force — Under new Act of 1963 it applies to all applications except those under O. 21, Civil P. C. and also to all special or local enactments unless specifically excluded by any of them (Nov) 299B.

—S. 19 — Acknowledgment — An acknowledgment which contains a promise to pay even by implication in an agreement creates a new right of action on which a suit can be founded. AIR 1951 Raj 74 & AIR 1956 Raj 12, **Overruled**; AIR 1952 Raj 7 (FB), **Dissented.**; AIR 1935 All 129, **held overruled** by AIR 1953 SC 225 (Jul) 192A (FB)

Motor Vehicles Act (contd.)

lying on common highway and having one terminus — Matters arising from two sets of applications are distinct — Transport Authority can consider applications for fresh permits while postponing consideration of other set of applications. CWP No. 35 of 1968, D/- 11-7-1968 (Raj), Reversed (Jun) 173A

—Ss. 47 (3) and 48 — Powers of Regional Transport Authority under S. 48 controlled by Section 47 (3) — For restricting rights of authority, a resolution of Regional Transport Authority limiting number of stage carriages, must exist — Preparation or taking steps for passing resolution — No bar against his rights under S. 48 and action if taken is not without jurisdiction (Aug) 228C

—S. 48 — Powers of R. T. A. controlled by S. 47 (3) — See Motor Vehicles Act (1939), S. 47 (3) (Aug) 228C

—Ss. 48 (1), 57 (3) — Grant of permit for route other than specified in application is illegal — Liable to be quashed in writ proceeding preferred by aggrieved applicant — Whether representation under S. 57 (3) is filed earlier is immaterial (Jun) 173C

—S. 57 (3) — Grant of permit — Preference in — Representation against preference not made — Does not affect right to challenge permit in writ petition — See Constitution of India, Art. 226 (Jun) 173B

—S. 57 (3) — Grant of permit for route other than specified in the application is illegal — Liable to be quashed in writ proceedings preferred by aggrieved party — Whether representation under the section filed earlier is immaterial — See Motor Vehicles Act (1939), S. 48 (1) (Jun) 173C

—S. 59 (1) — Contract Act (1872), Sections 23, 65 — Transfer of motor vehicle permit without permission of Transport Authority — Such transfer is forbidden by Section 59 (1), M. V. Act and therefore is unlawful under Section 23, Contract Act — Transfer illegal to knowledge of parties — Benefit of Section 65 is not available — Maxim "ex turpi causa non oritur actio" — Applicability (May) 155

—S. 60 (1) (d) — Allegation that permit is obtained by fraud or misrepresentation — Proper remedy lies under Section 60 (1) (d) and not by filing writ petition (Jun) 173D

—S. 64 — Appeal against order granting permit to another — Withdrawal of appeal — Writ for same relief not maintainable — See Motor Vehicles Act (1939), Section 47 (Aug) 228A

—S. 68-C — Scheme framed by General Manager of State Road Transport Corporation for nationalisation of certain route — Fact that the scheme

Motor Vehicles Act (contd.)

was framed without reference to a previous phased scheme framed by the then General Manager but which had been abandoned does not make the scheme ultra vires on ground that it was not framed after applying mind to the necessity of framing such scheme (Aug) 233B

—S. 68-C — Scheme under, merely mentioning number of services to be provided on route — Scheme not bad for want of provision for timings (Aug) 233E

—Ss. 68-D and 68-I — Rules under Section 68-I, Rule 6 — Scheme under Section 68-D — Hearing of objections and approval of scheme — State Government acts as quasi judicial authority — Delegation of function to Joint Legal Remembrancer is not invalid or inoperative — (Constitution of India, Art. 166) — (Rajasthan State Road Transport Services) (Development) Rules (1965), R. 6 (Aug) 233A

—S. 68-D — Nature of hearing contemplated indicated (Aug) 233D

—S. 68-I — Rules under — Hearing of objections to Scheme by State Government — Function is quasi-judicial — Delegation of function to Joint Legal Remembrancer valid — See Motor Vehicles Act (1939), Section 68-D (Aug) 233A

—S. 96 — Insurance claim — Insured negligent in defending suit — Right reserved in policy for insurer to defend action in insured's name — Insured should be allowed to do so under Section 151, Civil P. C. — See Civil P. C. (1908), Section 151 (Dec) 315

—S. 110 — Claims Tribunal constituted after 60 days of accident — Suit for compensation after constitution of Tribunal — Jurisdiction of Civil Court held barred — See Motor Vehicles Act (1939), Section 110-F (Dec) 316

—S. 110-A (3) — Tribunal has discretion to entertain application even after expiry of sixty days — See Motor Vehicles Act (1939), Section 110-F (Dec) 316

—Ss. 110-F, 110 and 110-A (3) — Scope — Accident — Change of forum from Civil Court to Claims Tribunal — No vested right in litigant — Claims Tribunal constituted after 60 days of accident — Suit for compensation after constitution of Tribunal — Jurisdiction of Civil Court held barred — By virtue of Section 110-A (3), Tribunal has discretion to entertain application even after expiry of sixty days — AIR 1964 Madh Pra 133 and 1962 MPLJ 465, Dissented from; AIR 1962 Punj 307, held overruled by AIR 1965 Punj 102 (Dec) 316

—S. 123 — Offence not falling under Sch. 5, Part A — Process under Section 130 (1) — Discretion of Magistrate

Motor Vehicles Act (contd.)

to endorse or not — Summoning owner of vehicle in offences under Sections 42 and 123 is valid — See Motor Vehicles Act (1939), Section 130

(Aug) 227

—Ss. 130, 42 and 123, Sch. V Part A — Object and applicability of Sec. 130 — Offence not specified in Part A, Sch. V — Issue of process — Magistrate has wide discretion to endorse or not on it in terms of Section 130 (1) (b) — Offence under Sections 42 and 123 — Owner of truck summoned to face trial — Summons not invalid — AIR 1965 Raj 21, Held, not good law in view of AIR 1965 SC 1583

(Aug) 227

—Sch. V, Part A — Offence not falling under Sch. 5, Part A — Process under Section 130 (1) — Discretion of Magistrate to endorse or not — Summoning owner of vehicle in offences under Sections 42 and 123 is valid — See Motor Vehicles Act (1939), Section 130

(Aug) 227

MUNICIPALITIES

—Rajasthan Municipalities Act (38 of 1959), Ss. 67 (d), 78 — Prevention of Food Adulteration Act (1954), S. 20 — Powers of Municipal Chairman under Section 67 (d) — Includes power to institute complaint for prosecution of accused under Section 20 of Food Adulteration Act — Specific delegation under Section 78 is not necessary — Appeal by Municipal Council on acquittal of accused is valid

(Jan) 16A

—S. 78 — Powers of Municipal Chairman under Section 67 (d) — Includes power to file complaint under Section 20 of Food Adulteration Act — Specific delegation under Section 78 not necessary — See Municipalities — Rajasthan Municipalities Act (38 of 1959), S. 67 (d)

(Jan) 16A

—S. 104 — Constitutional validity — Constitution of India, Articles 14 and 245 — Section 104 is not void either on account of excessive delegation or on account of violation of Article 14

(May) 146A

—S. 104 — Scope — Tax is imposed by Government in its own rights and not on behalf of municipal board though it may benefit only the municipal boards — Local differences in taxes can be allowed, but they cannot be allowed to be outrageous — Constitution of India, Art. 14

(May) 146B

Opium Act (1 of 1878), S. 14 — Searches subject to Criminal P. C. provisions — Violation of — Search illegal — Person searched has right of private defence — See Penal Code (1860), S. 99 (Apr) 121

—S. 15 — Searches subject to Criminal P. C. provisions — Violation of —

Opium Act (contd.)

Search illegal — Person searched has right of private defence — See Penal Code (1860), Section 99 (Apr) 121

—S. 16 — Searches subject to Criminal P. C. provisions — Violation of — Search illegal — Person searched has right of private defence — See Penal Code (1860), Section 99 (Apr) 121

PANCHAYATS

—Rajasthan Panchayat and Nyaya Panchayat Election Rules (1960), Rr. 30 and 39 — Ballot paper translucent — Lines demarcating compartments and symbols clearly visible on back side — Ballot paper marked by voter on the reverse — Paper valid (Mar) 92A

—R. 30 — Ballot paper — Question of validity of, whether question of law — See Constitution of India, Article 226

(Mar) 92B

—R. 39 — Ballot paper — Validity of — See Panchayats — Rajasthan Panchayat and Nyaya Panchayat Election Rules (1960), Rule 30 (Mar) 92A

Penal Code (45 of 1860), S. 40 — Motive — Relevancy of, as against direct evidence — Absence of proof of motive — Effect stated — (Criminal P. C. (1898), Section 367) — (Evidence Act (1872), Section 8) (Aug) 219B

—S. 52 — Acts of public servants wholly without jurisdiction — Effect — See Penal Code (1860), Section 99

(Apr) 121

—S. 97 — Acts of public servants wholly without jurisdiction — Did not attract exception contained in Section 99 — See Penal Code (1860), Section 99

(Apr) 121

—Ss. 99, 97, 52 — Acts of public servants wholly without jurisdiction — Attempt at search for and seizure of narcotics from petitioner's house — Officers not complying with Sec. 165, Criminal P. C. — Held, search illegal and petitioner had right of private defence — (Criminal P. C. (1898), Section 165 — Provision mandatory — Non-compliance fatal) — (Opium Act (1878), Ss. 14, 15 and 16 — Searches subject to Criminal P. C. provisions — Violation of — Search illegal — Person searched has right of private defence) (Apr) 121

—S. 302 — Weapons recovered during investigation — Omission to send to ballistic expert and chemical examiner — Effect — Recovery when does not link accused persons with crime — (Criminal P. C. (1898), Section 367) — (Evidence Act (1872), Section 3) (Aug) 219A

—S. 304-A — Fatal run-over accident — Rashness and negligence cannot be presumed, against driver — That death was direct result of rash and negligent driving must be proved — Motor driver

Penal Code (contd.)

aged sixty — Age shows experience — Stopping of vehicle within seven feet — Victim coming under rear wheel — All these facts do not show any negligence on part of driver (Mar) 86A

—S. 304-A — Run over accident — Rashness and negligence on part of driver not directly established — Some mechanical defect in vehicle not detectable without thorough examination — Criminal liability cannot be fastened on driver in case of fatal accident (Mar) 86B

—S. 406 — Property entrusted at place B — Offences under Section 406 and Section 411 committed at place J. — Both persons committing offences under Sections 406 and 411 could be tried together at place B. — See Criminal P. C. (1898), Section 239 (e) (Oct) 266

—S. 411 — Property entrusted at place B — Offences under Section 406 and Section 411 committed at place J. — Both persons committing offences under Sections 406 and 411 could be tried together at Place B — See Criminal P. C. (1898), Section 239 (e) (Oct) 266

—Ss. 499, Exception 9 and 500 — Disclosure to Panchayat that son-in-law was impotent — Disclosure in the interests of daughter — Panchayat, a recognised forum by custom — Disclosure, held, not punishable (Apr) 119

—S. 500 — Disclosure to Panchayat that son-in-law was impotent — Disclosure held not punishable as Panchayat was a recognised forum by custom — See Penal Code (1860), Section 499, Exception (Apr) 119

—S. 511 — "Attempt" — Act towards attempt need not be the penultimate act towards commission of offence — It can fall at any stage during series of acts which go to constitute offence (Mar) 65

Prevention of Food Adulteration Act (37 of 1954), S. 7 — Person contravening Section 16 need not necessarily be a licensed vendor — See Prevention of Food Adulteration Act (1954), Sec. 16 (Jan) 16B

—Ss. 10, 11, 16 — Negligence of Food Inspector to note what is written on milk container — Prosecution of accused on strength of his oral statement — Non-compliance with Section 11 — Conviction under Section 16 is illegal (Jan) 16C

—S. 11 — Non-compliance with S. 11 — Conviction under Section 16 is illegal — See Prevention of Food Adulteration Act (1954), Section 10 (Jan) 16C

—Ss. 16, 7 — Person contravening Section 16 need not necessarily be a licensed vendor (Jan) 16B

—S. 16 — Non-compliance with S. 11 — Conviction under Section 16 is illegal 1969 (Raj) Indexes 2 (1)

Prevention of Food Adulteration Act (contd.)

— See Prevention of Food Adulteration Act (1954), Section 10 (Jan) 16C

—S. 16 — Conviction under — Sale of adulterated food article must be proved (Jan) 16D

—S. 20 — Chairman of Municipal Committee — Has power to institute a complaint for prosecution of accused under the section — See Municipalities — Rajasthan Municipalities Act (38 of 1959), Section 67 (d) (Jan) 16A

—S. 20 — Interpretation — Prosecution under the Act — Sanction from authorities mentioned in the section, not contemplated (Feb) 39

Rajasthan Civil Service Rules

See under Civil Services.

Rajasthan General Clauses Act (8 of 1955), S. 11 — Last day for paying deposit ordered by Court being holiday deposit made on next working day — Should be deemed to have been made within time prescribed — See Limitation Act (1908), Section 12 (Apr) 112A

Rajasthan High Court Rules

See under High Court Rules and Orders.

Rajasthan Minor Mineral Concession Rules (1959), R. 46 — Appeal under, heard by Secretary but disposed of by Minister-in-charge — Invalid — See Constitution of India, Article 166 (May) 129

Rajasthan Municipalities Act (38 of 1959)

See under Municipalities.

Rajasthan Panchayat and Nyaya Panchayat Election Rules 1960

See under Panchayats.

Rajasthan Relief of Agricultural Indebtedness Act (28 of 1957)

See under Debt Laws.

Rajasthan Revenue Courts (Procedure and Jurisdiction) Act (1 of 1951), 1st Sch. Group B, Art. 10 — Interpretation — Section 180 of U. P. Tenancy Act, 1939, cannot be referred for interpreting provisions of Article 10 — Civil Ref. No. 22 of 1953, D/- 18-12-1953 (Raj), Overruled (Jun) 169A (FB)

—1st Schedule, Group B, Art. 10 — Trespasser, meaning of — Board of Revenue following view expressed in 1955, Rajasthan Law Weekly 23 where in absence of data giving indication about intention of Legislature to contrary, literal interpretation of Article 10 was adopted — Held, it could not be said that Board was manifestly wrong in following the said decision (Jun) 169C (FB)

Rajasthan Sales Tax Act (29 of 1954)

See under Sales Tax.

Rajasthan Stamp Law (Adaptation) Act (7 of 1952)

See under Stamp Duty.

Rajasthan State Road-Transport Services (Development) Rules (1965), R. 6 — Rules under Section 68-I, Motor Vehicles Act — Hearing of objection to Scheme by State Government — Function is quasi-judicial — Delegation of function to Joint Legal Remembrancer valid — See Motor Vehicles Act (1939), S. 68-D (Aug) 233A

Rajasthan Tenancy Act (3 of 1955)

See under Tenancy Laws.

Rajasthan University Act

See under Education.

Representation of the People Act (43 of 1951), Ss. 81, 82, 84 — Election petitioner, a voter — Whether he can claim declaration that he himself or any other candidate has been duly elected

(Sep) 245B

—S. 82 — Election — Whether voter can claim that he or some one else be declared duly elected — See Representation of the People Act (1951), S. 81

(Sep) 245B

—S. 84 — Election — Whether voter can claim that he or some one else be declared duly elected — See Representation of the People Act (1951), S. 81

(Sep) 245B

—S. 87 — Civil P. C. (1908), O. 17, Rule 3 — Dismissal of election petition — Mere fact that case did not fall under Order 17, Rule 3 does not mean that decision was not on merits (Mar) 75A

—S. 87 — Civil P. C. (1908), O. 9, Rule 8 — High Court has power to dismiss election petition on non-appearance of election petitioner — AIR 1960 J & K 25 (FB) and AIR 1964 All 181, Dissent. from. (Mar) 75B

Rules of Business (Government of Rajasthan), Rule 5 — Appeal under R. 46 (2) of Rajasthan Mineral Concession Rules 1959, heard by Secretary but disposed of by Minister-in-charge — Invalid — See Constitution of India, Article 166

(May) 129

—R. 21 — Appeal, under Rule 46 (2) of Rajasthan Minor Mineral Concession Rules, 1959, heard by Secretary but disposed of by Minister-in-charge — Invalid — See Constitution of India, Article 166

(May) 129

SALES TAX

—**Central Sales Tax Act (74 of 1956), S. 5** — Question whether transaction was made in course of export of goods outside India is a mixed question of law and fact — See Constitution of India, Art. 286 (1) (b) (Jun) 162B

—S. 15 — Rajasthan Sales Tax Act (29 of 1954), Section 5-A is not in contraven-

Sales Tax — Central Sales Tax Act (contd.)

tion of the section — See Sales Tax — Rajasthan Sales Tax Act (29 of 1954), Section 5-A (Jun) 162A

—**Rajasthan Sales Tax Act (29 of 1954), S. 5-A** — Section is neither ultra vires of Articles 286, 301 and 304 of the Constitution, nor is it in contravention of Section 15 of Central Sales Tax Act — Constitution of India, Articles 286, 301 and 304 — Central Sales Tax Act (1956), Section 15 (Jun) 162A

—S. 12 — Notice under — Whether gives jurisdiction to proceed for reassessment — Question of — Assessee should file writ of prohibition immediately when notice is served — Constitution of India, Article 226 — Prohibition (Jun) 162C

Sea Customs Act (8 of 1878), S. 167 (81) — Conviction based on statement made under Section 171-A — Recording of statement in English — Failure to interpret it to illiterate accused — Conviction improper — See Sea Customs Act (1878), Section 171-A (Feb) 48A

—Ss. 171-A, 167 (81) — Evidence Act (1872), Section 80 — Conviction based on statement made under Section 171-A — Recording of statement in English — Failure to interpret it to illiterate accused — Conviction improper (Feb) 48A

—S. 178-A — Presumption under, when can be raised — Neither application for issue of search warrant nor search memo mentioning possession by accused of smuggled gold — Reasonable belief not proved — Presumption cannot be raised (Feb) 48B

Specific Relief Act (1 of 1877), Sec. 10 — Enforcement of negative covenant — Conditions essential — See Specific Relief Act (1877), Section 41 (Aug) 212B

—Ss. 41, 42 and 10 — Injunction restraining breach of contract — Enforcement of negative covenant — Conditions essential (Aug) 212B

—S. 42 — Enforcement of negative covenant — Conditions essential — See Specific Relief Act (1877), Section 41 (Aug) 212B

Stamp Act (2 of 1899)

See under Stamp Duty.

STAMP DUTY

—**Rajasthan Stamp Law (Adaptation) Act (7 of 1952), Art. 57** — Stamp Act, (1899), Section 2 (5) (a) — In order to attract applicability of Art. 57 document itself must be mortgage deed or security bond — Promissory note and receipt though executed and given by

Stamp Duty — Rajasthan Stamp Law (Adaptation) Act (contd.)

way of security for performance of certain conditions, that would not make either of these documents as security bond and could not be stamped as such — (Jan) 22A

—Stamp Act (2 of 1899), S. 2 (5) (a) — See Rajasthan Stamp Law (Adaptation) Act (7 of 1952), Article 57 (Jan) 22A

—S. 35 — Admissibility or inadmissibility of document in evidence is matter of procedure — See Civil P. C. (1908), Section 115 (Dec) 313A

—Ss. 35 and 45 — Civil P. C. (1908), Section 115 — Order making document inadmissible in evidence under Sec. 35 — Order whether revisable (Dec) 313B

—S. 45 — Remedy provided by section is not as efficacious as one provided by Section 115, Civil P. C. — See Stamp Act (1899), Section 35 (Dec) 313B

—Sch. 1, Art. 1 — Acknowledgment must be stamped (Jul) 192D (FB)

—Sch. 1, Arts. 5 and 23 — Document relating to sale of truck — Document providing for payment of price in instalments and also for interest on unpaid price — Document also entitling seller to seize truck and keep it with him if instalments are not paid in time and sell it thereafter — Held, document was not exclusively agreement or memorandum of agreement relating to sale of goods falling within exemption (a) to Article 5 — Document was chargeable with duty as agreement and not as conveyance (Dec) 313C

—Sch. 1, Art. 23 — Document relating to sale of truck providing for payment of price in instalments and also for interest on unpaid price — Seller entitled to seize and keep truck if instalments are not paid and sell it thereafter — Document held was chargeable with duty as agreement and not as conveyance — See Stamp Act (1899), Sch. 1, Article 5 (Dec) 313C

—Art. 35 — In order to hold that agreement to let may be stamped as lease, it is necessary that such agreement should create actual demise (Jan) 22C

Suits Valuation Act (7 of 1887)

See under Courts-fees and Suits Valuations.

TENANCY LAWS

—Rajasthan Tenancy Act (3 of 1955), S. 242 — Jurisdiction of civil Court to try suit relating to tenancy rights — Some portion of claim made in plaint triable by Civil Court and other portion triable by revenue Court — Civil Court

Tenancy Laws — Rajasthan Tenancy Act (contd.)

can try suit and refer issue regarding claim for tenancy rights to revenue Court (Mar) 89

Transfer of Property Act (4 of 1882), S. 105 — Tenancy at will — Lease of premises — Natya Parishad — Reservation of yearly rent — Lease expressed to be at will of lessee only, by providing that it shall continue to stage dramas as long as it liked — Held, though tenancy was at the will of lessee it was equally a tenancy at will of the lessor, as it was tenancy at will — Reservation of yearly rent could make no difference (Jan) 24
 —Ss. 111 (g), 112, 113 — Determination of tenancy by "forfeiture" — Forfeiture what amounts to — Option to waive forfeiture is with lessor — Suit for eviction — Absence of plea of waiver of notice — Plea held not open to B in second appeal (Oct) 264

—S. 112 — Acceptance of rent after suit for eviction is filed — Difference in position under Section 112 and S. 113 — See Transfer of Property Act (1882), Section 111 (g) (Oct) 264
 —S. 113 — Plea of waiver not open for first time in second appeal — See Transfer of Property Act (1882), Sec. 111 (g) (Oct) 264

Wakf Act (29 of 1954), S. 5 (2) — What is final under Section 6 (4) is the "list of wakfs published under Section 5 (2)" — See Wakf Act (1954), S. 27 (Jan) 1B

—Ss. 6, 27 — Section 27 is comprehensive and is not to be read subject to Section 6 (Jan) 1A

—S. 6 (4) — List of wakfs published — Wakf Board is not divested of its jurisdiction to enquire into disputed wakfs — See Wakf Act (1954), S. 27 (Jan) 1B

—S. 27 — Section not to be read subject to Section 6 — See Wakf Act (1954), Section 6 (Jan) 1A

—Ss. 27, 6 (4), 5 (2) — Inquiry under Section 27 — List of wakfs published — Lapse of one year without filing of any suit as required by Section 6 (1) — Wakf Board is not divested of its jurisdiction to enquire into disputed wakfs (Jan) 1B

Wealth Tax Act (27 of 1957), S. 7 (2) — Allowance of depreciation — Matter of discretion of the tribunal — Books showing cost price — Assessee cannot claim depreciation as of right — Finality of exercise of discretion by Tribunal (Dec) 310

Words and Phrases — 'Surcharge, tax' and 'fee' — Meaning of — See Electricity (Supply) Act (1948), S. 49 (Sep) 254A

RAJASTHAN SUBJECTWISE LIST OF CASES OVERRULED, REVERSED AND DISSENTED FROM, ETC., IN A.I.R. 1969

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
REVERS.=Reversed in

Bombay Electricity (Surcharge) Act (As Extended to Ajmer Merwara under Ajmer Merwara) (Extension of Laws) Act (19 of 1946)

- S. 3 = ('64) F. A. Appeal No. 67 of 1956, D/- 22-9-1964 (Raj) — **Revers.** AIR 1969 SC 227B (Mar).
- S. 4 — ('64) F. A. Appeal No. 67 of 1956, D/- 22-9-1964 (Raj) — **Revers.** AIR 1969 SC 227B (Mar).
- S. 6 — ('64) F. A. Appeal No. 67 of 1956, D/- 22-9-1964 (Raj) — **Revers.** AIR 1969 SC 227B (Mar).

Civil Procedure Code (5 of 1908)

- S. 151 (as amended by Madras Amendment of 1930) — AIR 1956 Raj 43 — **Diss.** AIR 1969 Andh Pra 216A (Jul).
- O. 41, R. 23 — AIR 1956 Raj 43 — **Diss.** AIR 1969 Andh Pra 216A (Jul).

Criminal Procedure Code (5 of 1898)

- S. 145 — AIR 1966 Raj 5 — **Diss.** AIR 1969 Manipur 3 (Jan).
- S. 510-A — AIR 1966 Raj 5 — **Diss.** AIR 1969 Manipur 3 (Jan).
- S. 539 — AIR 1966 Raj 5 — **Diss.** AIR 1969 Manipur 3 (Jan).
- Ss 539-A, 539-AA — AIR 1966 Raj 5 — **Diss.** AIR 1969 Manipur 3 (Jan).

Electricity Act (9 of 1910)

- S. 3 (f), Sch. Cl. (12) — ('64) F. A. No Appeal No. 67 of 1956, D/- 22-9-1964 (Raj) — **Revers.** AIR 1969 SC 227C (Mar).

Income Tax Act (11 of 1922)

- S. 72 — AIR 1966 Raj 45 — **Revers.** AIR 1969 SC 470A (Jun).
- S. 80 — AIR 1966 Raj 45 — **Revers.** AIR 1969 SC 470A (Jun).
- S. 141 — AIR 1966 Raj 45 — **Revers.** AIR 1969 SC 470A (Jun).

Limitation Act (36 of 1963)

- S. 19 — AIR 1951 Raj 74 — **Over.** AIR 1969 Raj 192A (Jul) (FB).
- S. 19 — AIR 1952 Raj 7 (FB) — **Diss.** AIR 1969 Raj 192A (Jul) (FB).

Limitation Act (contd.)

- S. 19 — AIR 1956 Raj 12 — **Diss.** AIR 1969 Raj 192A (Jul) (FB).
- S. 42 — AIR 1965 Raj 21 — **Held,** not good law in view of AIR 1965 SC 1583 as interpreted. AIR 1969 Raj 227 (Aug).
- S. 47 (1) (c) — ('68) CWP No. 35 of 1968, D/- 11-7-1968 (Raj) — **Revers.** AIR 1969 Raj 173A (Jun).
- S. 130 — AIR 1965 Raj 21 — **Held,** not good law in view of AIR 1965 SC 1583 as interpreted. AIR 1969 Raj 227 (Aug).
- S. 123 — AIR 1965 Raj 21 — **Held,** not good law in view of AIR 1965 SC 1583 as interpreted. AIR 1969 Raj 227 (Aug).
- Sch. V, Part A — AIR 1965 Raj 21 — **Held,** not good law in view of AIR 1965 SC 1853 as interpreted. AIR 1969 Raj 227 (Aug).

MUNICIPALITIES

- Ajmer Merwara Municipalities Regulation (1925)
- S. 233 — ('64) F. A. Appeal No. 67 of 1956, D/- 22-9-1964 (Raj) — **Revers.** AIR 1969 SC 227A (Mar).

Rajasthan Revenue Courts (Procedure and Jurisdiction) Act (1 of 1951)

- Sch. 1, Group B, Art 10 — ('53) Civil Ref. No. 22 of 1953, D/- 18-12-1953 (Raj) — **Over.** AIR 1969 Raj 169A (Jan) (FB).

SALES TAX

- Rajasthan Sales Tax Act (29 of 1954)
- S. 2 (o) (s) (f) — ILR (1965) 15 Raj 603 — **Revers.** AIR 1969 SC 343A (May).
- S. 3 — ILR (1965) 15 Raj 603 — **Revers.** AIR 1969 SC 343A (May).
- Rajasthan Sales Tax Rules (1955)
- ('65) Civil Writ Petn. No. 401 of 1963, D/- 3-4-1965 (Raj) — **Revers.** AIR 1969 SC 880 (Oct).
- Sales Tax Laws Validation Act (7 of 1956)
- S. 2 — ILR (1965) 15 Raj 603 — **Revers.** AIR 1969 SC 343R (May).

RAJASTHAN CASES OVERRULED, REVERSED AND DISSENTED FROM, ETC. IN A. I. R. 1969

DISS.=Dissented from in; NOT F.=Not followed in; OVER.=Overruled in;
REVERS.=Reversed in

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|---|--|
| <p>('51) AIR 1951 Raj 74 = 1950 Raj LW 284, Kanraj v. Vijaysingh — Over. AIR 1969 Raj 192A (FB) (July).</p> <p>('52) AIR 1952 Raj 7 = ILR (1951) 1 Raj 297 (FB), Hastimal v. Shankardan — Diss. AIR 1969 Raj 192A (Jul) (FB).</p> <p>('53) Civil Ref. No. 22 of 1953, D/- 18-12-1953 (Raj), Deokishan v. Bhagwan-das — Over. AIR 1969 Raj 169A (Jun) (FB).</p> <p>('56) AIR 1956 Raj 12 = ILR (1955) 5 Raj 85, Ramdayal v. Maji Deodji — Over. AIR 1969 Raj 192A (Jul) (FB).</p> <p>('56) AIR 1956 Raj 43 = ILR (1955) 5 Raj 143, Punja v. Ramlal — Diss. AIR 1969 Andh Pra 216A (Jul).</p> <p>('64) F. A. Appeal No. 67 of 1956, D/- 22-9-1964 (Raj) — Revers. AIR 1969 SC 227A, B, C (Mar).</p> | <p>('65) AIR 1965 Raj 21 = (1965) 1 Cri LJ 217, Bagh Singh v. State of Rajas-
than — Held, not good law in view
of AIR 1965 SC 1583 as interpreted.
AIR 1969 Raj 227 (Aug).</p> <p>('65) ILR (1965) 15 Raj 603, Karam Chand
Thappar and Bros. v. Sales Tax Offi-
cer — Revers. AIR 1969 SC 343A, B
(May).</p> <p>('65) Civil Writ Petn. No. 401 of 1963, D/-
3-4-1965 (Raj) — Revers. AIR 1969
SC 380 (Oct).</p> <p>('66) AIR 1966 Raj 5 = 1966 Cri LJ 60,
Hemdan v. State of Rajasthan —
Diss. AIR 1969 Manipur 3 (Jan).</p> <p>('66) AIR 1966 Raj 45 = (1965) 2 ITJ 62
= 1965 Raj LW 267 = (1965) 58 ITR
118, Jaipur Udyog Ltd. v. Income
Tax Commr. Delhi — Revers. AIR
1969 SC 470A (Jun).</p> <p>('68) CWP No. 35 of 1968, D/- 11-7-1968
(Raj) — Revers. AIR 1969 Raj 173A
(Jun).</p> |
|---|--|
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COMPARATIVE TABLES

Supplement to Comparative Tables of A. I. R. of Previous years.

Owing to late receipt of other Journals the following *supplement* to comparative tables of A. I. R. = Other Journals is issued.

A. I. R. Rajasthan = Other Journals

AIR 1966 Rajasthan		AIR 1967 Raj		AIR 1968 Raj		AIR 1968 Raj	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
154	73 I T R 402	283	ILR (1967) 17 Raj 421	88	ILR (1967) 17 Raj 860	227	ILR (1969) 19 Raj 547
—		—		89	ILR (1967) 17 Raj 459	233	ILR (1968) 18 Raj 444
AIR 1967 Rajasthan		AIR 1968 Rajasthan		94	ILR (1967) 17 Raj 928	237	ILR (1968) 18 Raj 371
AIR	Other Journals	AIR	Other Journals	99	ILR (1967) 17 Raj 795	241	ILR (1968) 18 Raj 379
85	ILR (1967) 17 Raj 620	1	ILR (1967) 17 Raj 210	116	ILR (1967) 17 Raj 844	244	ILR (1969) 19 Raj 434
145	(1969) 1 Lab L J 194	3	ILR (1967) 17 Raj 693	123	ILR (1967) 17 Raj 831	249	ILR (1967) 17 Raj 995
148	ILR (1967) 17 Raj 411	5	ILR (1967) 17 Raj 36	129	ILR (1967) 17 Raj 281	264	ILR (1968) 18 Raj 468
176	ILR (1967) 17 Raj 260	11	ILR (1967) 17 Raj 690	136	ILR (1967) 17 Raj 789	273	ILR (1968) 18 Raj 451
179	ILR (1967) 17 Raj 472	14	ILR (1967) 17 Raj 56	139	ILR (1967) 17 Raj 1034	277	ILR (1968) 18 Raj 523
184	ILR (1967) 17 Raj 435	20	ILR (1967) 17 Raj 14	145	ILR (1968) 18 Raj 40	278	ILR (1967) 17 Raj 987
194	ILR (1967) 17 Raj 23	33	ILR (1967) 17 Raj 1	148	ILR (1968) 18 Raj 30	282	ILR (1968) 18 Raj 58
214	(1969) 2 Lab L J 266	39	ILR (1967) 17 Raj 637	151	ILR (1967) 17 Raj 967	287	ILR (1968) 18 Raj 157
221	ILR (1967) 17 Raj 683	41	ILR (1967) 17 Raj 650	161	ILR (1967) 17 Raj 891	298	ILR (1968) 18 Raj 368
224	ILR (1967) 17 Raj 675	44	ILR (1967) 17 Raj 741	169	ILR (1968) 18 Raj 1	297	1969 Raj L W 24 ILR (1968) 18 Raj 1062
233	ILR (1967) 17 Raj 257	45	1968 Serv L R 55 ILR (1967) 17 Raj 256	179	ILR (1967) 17 Raj 885	305	1968 Raj L W 574 ILR (1969) 19 Raj 564
235	ILR (1967) 17 Raj 642	46	ILR (1967) 17 Raj 906	182	ILR (1968) 18 Raj 349	311	39 Com Cas 663 ILR (1963) 18 Raj 661
237	ILR (1967) 17 Raj 703	48	ILR (1967) 17 Raj 724	187	ILR (1968) 18 Raj 242	314	ILR (1968) 18 Raj 803
251	ILR (1967) 17 Raj 664	59	ILR (1967) 17 Raj 755	188	ILR (1968) 18 Raj 389	327	ILR (1968) 18 Raj 1129
257	ILR (1967) 17 Raj 446	63	ILR (1967) 17 Raj 865	212	ILR (1968) 18 Raj 492	331	39 Com Cases 349 ILR (1969) 19 Raj 168
258	ILR (1967) 17 Raj 646	70	ILR (1967) 17 Raj 953	213	ILR (1968) 18 Raj 520	334	1968 Raj L W 571 ILR (1968) 18 Raj 877
264	ILR (1967) 17 Raj 584	72	ILR (1967) 17 Raj 835	214	39 Com Cas 670 ILR (1968) 18 Raj 357		
269	ILR (1967) 17 Raj 730	77	ILR (1967) 17 Raj 882	220	39 Com Cas 340 ILR (1968) 18 Raj 231		
272	ILR (1967) 17 Raj 142	79	ILR (1967) 17 Raj 957	224	ILR (1968) 18 Raj 149		
280	ILR (1967) 17 Raj 657	81	ILR (1967) 17 Raj 943				

A. I. R. 1969 Rajasthan = Other Journals

AIR 1969 Rajasthan		AIR 1969 Rajasthan		AIR 1969 Rajasthan		AIR 1969 Rajasthan	
AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [CN 1]	1969 Raj L W 77 ILR (1968) 18 Raj 843	16 [CN 4]	1969 Cri L J 233	29con	1969 Cri L J 306 ILR (1969) 19 Raj 586	41con	ILR (1968) 18 Raj 1191
9 [CN 2]	1968 Raj L W 345 ILR (1968) 18 Raj 671	22 [CN 5]	1968 Raj L W 332 ILR (1968) 18 Raj 540	31 [CN 8]	1968 Raj L W 580	48 [CN 11]	1968 Cri L J 311 ILR (1968) 18 Raj 962
11 [CN 3]	1969 Raj L W 501 ILR (1968) 18 Raj 481	24 [CN 6]	1968 Raj L W 489 ILR (1968) 18 Raj 675	39 [CN 9]	1969 Cri L J 308 ILR (1968) 18 Raj 1105	52 [CN 12]	1968 Raj L W 527 ILR (1968) 18 Raj 858
		29 [CN 7]	1969 Raj L W 4	41 [CN 10]	1969 Raj L W 130	61 [CN 13]	1969 Cri L J 314

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
65 [CN 14]	1969 Cri L J 437 1969 Raj L W 127	119 [CN 25]	1969 Cri L J 513 ILR (1969) 19 Raj 724	162conILR (1968) 18 Raj 1232	254conILR (1969) 19 Raj 226
68 [CN 15]	1969 Lab I C 503 (1969) 2 Lab L J 44 35 F J R 427	121 [CN 26]	1939 Cri L J 515 ILR (1969) 19 Raj 559	169 [CN 35] FB 1969 Raj L W 142 ILR (1968) 13 Raj 913	264 [CN 43] --- 266 [CN 49] 1969 Raj L W 168 1969 Cri L J 1268
75 [CN 16] ...		123 [CN 27]	1969 Raj L W 32 ILR (1968) 18 Raj 921	173 [CN 36] ILR (1969) 19 Raj 41	270 [CN 50] 1969 Raj L W 190 ILR (1969) 19 Raj 448
82 [CN 17]	1969 Raj L W 15 1969 Cri L J 441	FB 1969 Raj L W 32 ILR (1968) 18 Raj 921		182 [CN 37] 1969 Raj L W 285 ILR (1969) 19 Raj 76	276 [CN 51] 1969 Raj L W 175 1969 Cri L J 1272
86 [CN 18]	1968 Raj L W 485 1969 Cri L J 445 1969 A C J 19	129 [CN 28]	1969 Raj L W 221 ILR (1969) 19 Raj 1	192 [CN 38] FB ILR (1968) 18 Raj 1137	278 [CN 52] 1969 Raj L W 343 ILR (1969) 19 Raj 531
89 [CN 19]	ILR (1968) 18 Raj 707	131 [CN 29]	1969 Raj L W 121 1969 Ren C R 321 ILR (1969) 19 Raj 515	212 [CN 39] 1969 Raj L W 176	
92 [CN 20]	1969 Raj L W 20 ILR (1968) 18 Raj 1176	136 [CN 30]	ILR (1968) 18 Raj 984	219 [CN 40] 1969 Cri L J 1002 ILR (1969) 19 Raj 273	281 [CN 53] 1969 Raj L W 404 ILR (1969) 19 Raj 6
95 [CN 21]	1968 Raj L W 536 (1968) 2 Lab L J 682 1969 Lab I C 444 35 I T R 305 ILR (1968) 18 Raj 747	142 [CN 31]	1969 Raj L W 101 72 I T R 278 ILR (1968) 18 Raj 1203	227 [CN 41] 1969 Raj L W 208 1969 Cri L J 1009	299 [CN 54] ... 302 [CN 55] ... 304 [CN 56] 1969 Raj L W 241
109 [CN 22]	1969 Raj L W 113	146 [CN 32]	1969 Raj L W 367	228 [CN 42] 1969 Raj L W 398	310 [CN 57] 73 I T R 450 ILR (1969) 19 Raj 369
112 [CN 23]	1969 Raj L W 218 ILR (1969) 19 Raj 524	155 [CN 33]	1969 Raj L W 377 ILR (1969) 19 Raj 591	233 [CN 43] ILR (1969) 19 Raj 185	313 [CN 58] 1969 Raj L W 243 ILR (1969) 19 Raj 538
115 [CN 24]	1969 Cri L J 509	162 [CN 34]	23 S T O 74 1969 Raj L W 227	245 [CN 44] 1969 Raj L W 266	
				252 [CN 45] 1969 Raj L W 215 ILR (1969) 19 Raj 424	
				253 [CN 46] ...	315 [CN 59] ...
				254 [CN 47] 1969 Raj L W 147	316 [CN 60] 1969 Raj L W 542

Other Journals = All India Reporter

ILR (1967) 17 Raj				ILR (1967) 17 Raj				ILR (1968) 18 Raj				ILR (1969) 19 Raj				1969 Raj L W			
(Jan to Dec 1967)																			
ILR (Raj)	AIR			ILR (Raj)	AIR			ILR (Raj)	AIR			ILR (Raj)	AIR			Raj L W	AIR		
1 1968 Raj 33				84 1968 Raj 116				481 1969 Raj 11				41 1969 Raj 173				4 1969 Raj 29			
14 " " 20				857 " Lab				492 1968 " 212				60 1969 Cri				15 " " 82			
23 1969 " 194				860 " Raj 86				494 " Lab IO 1348				76 " Raj 182				20 " " 92			
36 1968 " 5				865 " " 63				503 " Ori				168 1968 " 331				24 1968 " 297			
56 " " 14				885 " " 179				520 " Raj 213				174 1969 Cri				32 1969 " 123			
142 1967 " 272				891 " " 161				523 " " 277				76 " Raj 1595				37 " Lab IO 61			
210 1968 " 1				906 " " 46				640 1969 " 22				185 " Raj 233				47 1968 " 1605			
256 " " 45				910 " Cri LJ 431				551 1968 Cri				226 " " 254				77 1969 Raj 1			
257 1967 " 233				928 " Raj 94				590 " " 1260				246 1970 " 1				101 " " 142			
260 " " 176				943 " " 81				665 " Lab				273 1969 " 219				113 " " 109			
281 1968 " 129				953 " " 70				664 " " 1597				327 1970 " 26				121 " " 131			
308 " Lab IO 607				957 " " 79				671 1969 " 9				340 " " 36				127 " " 65			
335 " Raj 72				987 " " 151				675 " " 24				369 1969 " 310				130 " " 41			
362 " Lab IO 86				987 " " 278				707 " " 89				386 1970 Lab IO 251				142 " " 168			
372 " Cri LJ 270				995 " " 249				712 " Lab IO 913				404 1969 Cri				147 " " 254			
382 " Raj 77				1034 " " 139				747 " Raj 95				412 1970 Raj 53				168 " " 286			
385 " Cri LJ 275								803 1968 " 314				424 1969 " 252				175 " " 276			
408 1967 Cri								831 1969 Cri LJ 582				434 1968 " 244				176 " " 212			
								837 " " 958				448 1969 " 270				180 " " 270			
411 " Raj 148								843 " Raj 1				515 " " 131				208 " " 227			
421 " " 283								858 " " 52				524 " " 112				213 1969 Cri LJ 831			
435 " " 184								867 1968 Raj 334				531 " " 278				215 " " 252			
445 " " 257								913 1969 " 169				538 " " 313				218 " " 112			
459 1968 " 89								921 " " 123				547 1968 " 227				221 " " 129			
472 1967 " 179								962 " " 48				559 1969 " 121				227 " " 162			
584 " " 264								984 " " 136				564 1968 " 305				235 " " 1595			
620 " " 85								1020 1968 Lab				566 1969 " 29				241 " Raj 304			
630 1968 " 41								I C 1605				581 " " 155				248 " " 318			
637 " " 39								1062 " Raj 297				626 1970 " 60				253 1970 " 59			
642 1967 " 235								1105 1969 " 39				711 1968 Cri				266 1969 " 245			
646 " " 258								1129 1968 " 327				L J 1386				285 " " 182			
657 " " 280								1137 1969 " 192				724 1969 Raj 119				307 " Lab IO 518			
664 " " 251								1176 " " 92								332 " Cri			
675 " " 224								1191 " " 41								L J 1461			
683 " " 221								1203 " " 142								336 1970 Raj 26			
690 1968 " 11								1232 " " 162								343 1969 " 278			
699 " " 3																350 1970 " 1			
703 1967 " 237																363 " " 22			
																367 1969 " 146			
707 1968 Cri LJ 130																377 " " 155			
724 " Raj 48																386 " Cri LJ 1328			
730 1967 " 269																398 " Raj 228			
741 1968 " 44																404 " " 281			
755 " " 59																439 1970 Lab IO 251			
764 1969 Lab IO 330																455 " Raj 32			
789 1968 Raj 136																469 1969 " 310			
795 " " 99																473 1970 " 36			
831 " " 123																528 " " 48			
																542 1969 " 316			
																610 1970 " 60			

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TRIPURA JUDICIAL COMMISSIONER'S COURT

1969

JUDICIAL COMMISSIONERS :

The Hon'ble Shri C. Jagannadhacharyulu, B.A.,B.L. (up to 28-4-69).

■ ■ R. S. Bindra (From 28-4-69)

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NOMINAL TABLE

Amaresh Chandra v. N. K. Chanda	(Jan) 13	Pramode Chandra v. State	(July) 42
Ashoka Construction Co. v. Union of India, New Delhi	(Mar) 19	Pran Gopal Shah v. District Magistrate and Collector (Tribal Welfare Section), Agartala	(Jan) 10
Aswini Kumar v. Union Territory of Tripura, Agartala	(Mar) 26	Rajendra Mohan v. Nimi Chand	(Jan) 15
Kumar Tripura v. State	(Dec) 57	Ramesh Chandra Sutradhar v. State	(Dec) 53
Sankar Bhattacharjee v. Sushil Kumar Gupta	(Mar) 31	Sudhir Chandra Deb Nath v. State-Union Territory of Tripura	(Jan) 7
Nripendra Chakravarty v. District Magistrate, Tripura	(July) 44	Union Territory of Tripura v. Madhusudan Guna	(Jan) 1
Nripendra Chandra Dutta Mukherjee v. Administration of Tripura	(Dec) 62		

SUBJECT INDEX

Arbitration Act (10 of 1940), Ss. 2 (a) and 20
 —Identity or arbitrator left vague in arbitration clause—Agreement is not rendered invalid—Reference is maintainable—Parties not agreeing to appointment of arbitrator—Court must appoint. AIR 1964 Tripura 27, Dissented from (Mar) 19B
 —Ss. 2 (a) and 20, 21—High Court, as Court of revision, is authorised to appoint arbitrator (Mar) 19F
 —Ss. 4, 8 — Appointment of arbitrator—Appointment as persona designata—Parties can authorise him to appoint his nominee (Mar) 19D
 —S. 8—Appointment of arbitrator as persona designata—Parties can authorise him to appoint his nominee—Provisions of S. 8 not contrary to those in S. 4—See Arbitration Act (1940), S. 4 (Mar) 19D
 —S. 20—Arbitration agreement—Not void because of vagueness as to identity of arbitrator—Reference maintainable—Court must appoint arbitrator, if parties do not agree to appointment of arbitrator—See Arbitration Act (1940), S. 2 (a) (Mar) 19B
 —S. 20—Power of High Court to appoint arbitrator—See Arbitration Act (1940), S. 2 (a) (Mar) 19F
 —S. 21—Power of High Court to appoint arbitrator—See Arbitration Act (1940), S. 2 (a) (Mar) 19F

Bombay Co-operative Societies Act (7 of 1925)
 —Under Co-operative Societies.

Central Civil Services (Temporary Service) Rules, 1949
 —See Civil Services.

Civil Procedure Code (5 of 1908), S. 11—Res judicata—Principles of, applicable in arbitration proceedings (Mar) 19C

Civil P. C. (contd.)

—S. 115—Tripura (Courts) Order, S. 34 — Subordinate Court following High Court's decision—High Court subsequently dissenting from earlier decision—Revision against order of subordinate Court is maintainable (Mar) 19E
 —O. 6, R. 8; O. 8, R. 2 and O. 41, R. 1—Denial of contract—Plea as to, raised during reply argument in appeal—Not admissible—Constitution of India, Art. 299(1): (Mar) 26A
 —O. 7, Rr. 14, 18 — Production of documents—Non-compliance—Effect (Mar) 26C
 —O. 7, R. 18—Production of documents — Non-compliance — Effect — See Civil P. C. (1908), O. 7, 14 (Mar) 26C
 —O. 8, R. 2 — Plea of denial of contract — Raised in reply argument in appeal — Not admissible—See Civil P. C. (1908), O. 6, R. 8 (Mar) 26A
 —O. 9, R. 13—Application to set aside ex parte decree not one for review under Art. 182 (3), Limitation Act, 1908—It does not therefore give a fresh start of limitation—See Limitation Act (1908), Art. 182 (3) (Jan) 15A
 —O. 41, R. 1—Plea of denial of contract—Raised in reply argument in appeal — Not admissible — See Civil P. C. (1908), O. 6 R. 8 (Mar) 26A
 —O. 47, R. 1 — Application under O. 9, R. 13—Not one for review — See Limitation Act (1908), Art. 182 (3) (Jan) 15A

CIVIL SERVICES

—Central Civil Services (Temporary Service) Rules, 1949, R. 5—Notice terminating service
 —Office file showing orders passed by appointing authority—Copy of the order served on the Government servant signed by another and not mentioning that it was on behalf of

Civil Services — Central Civil Services (Temporary Service) Rules (contd.)
 the Appointing Authority — Held, Appointing Authority signing the original order on office file is enough compliance with R. 5 (a) (Jan) 10B

Constitution of India, Art. 14—Bail—Dacoity case against five—Case against three stronger than against those released on bail—Refusal to grant bail to these three does not amount to discrimination—*See* Criminal P. C. (1898), S. 497 (July) 42D

—**Art. 20** — Applicability — Secretary to Co-operative Society entrusted with its funds and responsible to keep cash and accounts — Causing false entries to be made showing sham payments to his friends and relatives — Contravention of bye-laws — Secretary liable — His absence at the time of alleged payments, held, could not absolve him — Prior prosecution for offences under Ss. 60 and 63 of the Bombay Co-operative Societies Act, held, no bar to trial for offences under Penal Code—*See* Penal Code (1860), S. 408 (Mar) 31A

—**Art. 226** — Subsequent events — Courts can take notice of developments which take place pendente lite (Dec) 62C

—**Art. 299 (1)** — Plea of denial of contract — Raised in reply argument in appeal—Not admissible—*See* Civil P. C. (1908), O. 6, R. 8 (Mar) 26A

—**Art. 311 (1), (2)**—Order must be by way of punishment, to bring case under either clause (Jan) 10A

Contract Act (9 of 1872), S. 10—Construction of contract — Arbitration clause providing innumerable persons as arbitrators—Identity of arbitrator must be interpreted as vague and uncertain. AIR 1964 Tri 27, Diss. from (Mar) 19A

—**Ss. 65, 70**—Suit based on void contract —Benefit derived from transaction — Party bound to compensate (Mar) 26B

—**S. 70**—Benefit derived from void contract—Party bound to compensate—*See* Contract Act (1872), S. 65 (Mar) 26B

—**S. 148**—Evidence Act (1872), Ss. 101-104 — Storing agent — Liability to return goods — Burden of proof (Mar) 26G

CO-OPERATIVE SOCIETIES

—**Bombay Co-operative Societies Act (7 of 1925), S. 54**—Admission — What is — Statement explaining a discrepancy in accounts maintained by Secretary of a Co-operative Society in reply to a Memo from the Co-operative Registrar — Registrar entitled to call for information under Ss. 54 and 60 (b) of the Bombay Co-operative Societies Act —

Co-operative Societies—Bombay Co-operative Societies Act (contd.)
 Statement in reply is an admission under S. 17 and not hit by S. 24—*See* Evidence Act (1872), S. 17 (Mar) 31B

—**S. 60**—Applicability — Secretary to Co-operative Society entrusted with its funds and responsible to keep cash and accounts — Causing false entries to be made showing sham payments to his friends and relatives — Contravention of bye-laws — Secretary liable — His absence at the time of alleged payments, held, could not absolve him — Prior prosecution for offences under Ss. 60 and 63 of the Bombay Co-operative Societies Act, held, no bar to trial for offences under Penal Code—*See* Penal Code (1860), S. 408 (Mar) 31A

—**S. 60 (b) and (c)**—Admission—What is — Statement explaining a discrepancy in accounts maintained by Secretary of a Co-operative Society in reply to a Memo from the Co-operative Registrar — Registrar entitled to call for information under Ss. 54 and 60(b) of the Bombay Co-operative Societies Act—Statement in reply is an admission under S. 17 and not hit by S. 24 — *See* Evidence Act (1872), S. 17 (Mar) 31B

—**S. 61**—Applicability — Secretary to Co-operative Society entrusted with its funds and responsible to keep cash and accounts — Causing false entries to be made showing sham payments to his friends and relatives — Contravention of bye-laws — Secretary liable — His absence at the time of alleged payments, held, could not absolve him — Prior prosecution for offences under Ss. 60 and 63 of the Bombay Co-operative Societies Act, held, no bar to trial for offences under Penal Code—*See* Penal Code (1860), S. 408 (Mar) 31A

—**S. 63**—Applicability — Secretary to Co-operative Society entrusted with its funds and responsible to keep cash and accounts — Causing false entries to be made showing sham payments to his friends and relatives — Contravention of bye-laws—Secretary liable — His absence at the time of alleged payments, held, could not absolve him — Prior prosecution for offences under Ss. 60 and 63 of the Bombay Co-operative Societies Act, held, no bar to trial for offences under Penal Code—*See* Penal Code (1860), S. 408 (Mar) 31A

Criminal Procedure Code (5 of 1898), S. 54—Power under the P. D. Act is in addition to those contained in the Criminal P. C. — *See* Public Safety — Preventive Detention Act (1950), S. 1 (July) 44C

Criminal P. C. (contd.)

—Ss. 202 and 439—Postponing issue of process—Reasons for not recorded—Order is erroneous and liable to be set aside

(Jan) 13

—S. 367—Criminal trial—Motive—Proof of is always not necessary — See Penal Code (1860), Chap. 4, Gen.

(Dec) 53A

—S. 367 — Circumstantial evidence — Appreciation of—Must be consistent only with guilt of accused — See Evidence Act (1872), S. 3

(Dec) 57A

—S. 403—Applicability—Secretary to Co-operative society entrusted with its funds and responsible to keep cash and accounts —Cusing false entries to be made showing sham payments to his friends and relatives —Contravention of bye-laws — Secretary liable—His absence at the time of alleged payments, held, could not absolve him—Prior prosecution for offence under Ss. 60 and 63 of the Bombay Co-op. Societies Act, held, no bar to trial for offences under Penal Code — See Penal Code (1860), S. 403

(Mar) 31A

—S. 417 (3) — Right of complainant—Appeal against acquittal—Court can set aside the acquittal if it is incorrect—Lower Court's judgment need not be characterised as perverse

(Mar) 31C

—S. 439—Postponing issue of process—Reasons not recorded—Order is erroneous and liable to be set aside—See Criminal P. C. (1898), S. 202

(Jan) 13

—Ss. 497, 498—Principles governing grant of bail —Dacoity — Accused persons not concealing their identity before committing offence—No ground to hold prima facie evidence against them as unbelievable—(Penal Code (1860), Ss. 395, 397)

(July) 42A

—Ss. 497, 498—Probability of absconding —Grant of bail, not proper—Penal Code (1860), Ss. 395, 397

(July) 42B

—Ss. 497, 498—Grant of bail—Matters to be considered

(July) 42C

—Ss. 497, 498—Dacoity case involving five accused—Two of them released on bail—Case against remaining three accused prima facie stronger than against those released on bail—Refusal to grant bail to these three does not amount to discrimination

(July) 42D

—S. 498—Principles governing grant of bail in dacoity cases—See Criminal P. C. (1898), S. 497

(July) 42A

—S. 498—Probability of accused absconding—Grant of bail not proper—See Criminal P. C. (1898), S. 497

(July) 42B

—S. 498 — Matters to be taken into consideration when granting bail — See Criminal P. C. (1898), S. 497

(July) 42C

—S. 498—Release on bail — Dacoity case —Refusal of bail to those against whom

Criminal P. C. (contd.)

prima facie stronger case—No discrimination—See Criminal P. C. (1898), S. 497

(July) 42D

Criminal Trial—Motive — See Penal Code (1860), Chapter 4, General

Evidence Act (1 of 1872), S. 3—Criminal trial

—Motive—Proof of, is not always necessary —See Penal Code (1860) Chap. 4 General

(Dec) 53A

—S. 3 — Penal Code (1860), S. 364 — Circumstantial evidence — Appreciation of—Must be consistent only with guilt of accused

(Dec) 57A

—Ss. 17, 24—Admission—What is—Statement explaining a discrepancy in accounts maintained by Secretary of a Co-operative Society in reply to a Memo from the Co-operative Registrar — Registrar entitled to call for information under Ss. 54 and 60 (b) of the Bombay Co-operative Societies Act — Statement in reply is an admission under S. 17 and not hit by S. 24. (Bombay Co-operative Societies Act (7 of 1925), Ss. 54, 60 (b) and (c))

(Mar) 31B

—S. 24—Admission—What is—Statement explaining a discrepancy in accounts maintained by Secretary of a Co-operative Society in reply to a Memo from the Co-operative Registrar—Registrar entitled to call for information under Ss. 54 and 60 (b) of the Bombay Co-operative Societies Act—Statement in reply is an admission under S. 17 and not hit by S. 24—See Evidence Act (1872), S. 17

(Mar) 31B

—S. 34—Books of accounts—Relevancy

(Mar) 26E

—Ss. 63, 65—Copy of copy not admissible

(Mar) 26F

—S. 65—Copy of a copy not admissible—See Evidence Act (1872), S. 63

(Mar) 26F

—Ss. 101-104—Storing agent—Liability to return goods—Burden of proof—See Contract Act (1872), S. 148

(Mar) 26G

—Ss. 159, 160—Use of writing for refreshing memory

(Mar) 26D

—S. 160 — Use of writing for refreshing memory—See Evidence Act (1872), S. 159

(Mar) 26D

Forest Act (16 of 1927), S. 2 (4) — Transit Rules respecting timber and other forests produce—Chief Commissioner is possessed of ample powers to make rules relating to transit of all timber and other forest produce whether found in or brought from reserved forests or private lands — See Forest Act (1927), S. 41

(Dec) 62B

—Ss. 41, 42, 2 (4)—Transit rules respecting timber and other forest produce — Chief Commissioner is possessed of ample powers to make rules relating to transit of all timber and other forest produce whether found

Forest Act (contd.)

in or brought from reserved forests or private lands (Dec) 62B

—S. 42—Transit Rules respecting timber and other forests produce — Chief Commissioner is possessed of ample powers to make rules relating to transit of all timber and other forest produce whether found in or brought from reserved forests or private lands—See Forest Act (1927), S. 41: (Dec) 62B

HIGH COURT RULES AND ORDERS

—Tripura (Courts) Order, S. 34 — Subordinate Court following decision of High Court subsequently dissented from by the High Court — Revision against order of subordinate Court is maintainable — See Civil P. C. (1908), S. 115 (Mar) 19E

Limitation Act (9 of 1908), S. 3 — Scope — S. 3 casts a duty on Court to dismiss any matter which is barred by limitation, even though no plea is taken by defendants with regard to limitation (Jan) 15C

—Arts. 49 and 120 — Wrongful seizure of goods — Suit against Government for compensation — Art. 49 and not Art. 120 applies (Jan) 1

—Art. 120—Suit for compensation against Government for wrongful seizure of goods—Article applies — See Limitation Act (1908), Art. 49 (Jan) 1

—Art. 182 (3) — 'Review of judgment' — Application to set aside ex parte decree under O. 9, R. 13 of Civil P. C., 1908, is not one for review within Art. 182 (3) and hence order thereon does not give fresh start of limitation — (Civil P. C. (1908), O. 9, R. 13 and O. 47, R. 1) (Jan) 15A

—Art. 182 (2) — 'Where there has been an appeal'—Suit for possession decreed ex parte against all defendants on 17-8-1953 T. E. — On application by defendant N to set aside ex parte decree against him, suit decreed against N on contest and ex parte against other defendants on 22-1-1959 T. E.—Appeal against decree D/- 22-1-1959 T. E. — Time taken in prosecuting appeal against decree D/- 22-1-1959 T. E. cannot be deducted in computing period of limitation for purpose of execution of ex parte decree D/- 17-8-1953 T. E. (Jan) 15B

Limitation Act (36 of 1963), S. 3 — See Limitation Act (9 of 1908), S. 3 (Jan) 15C

—Art. 136—See Limitation Act (9 of 1908), Art. 182 (2) (Jan) 15B

Penal Code (45 of 1860), S. 40 — Motive—See Penal Code (1860), Chap. IV, General (Dec) 53

—Chap. IV, General Ss. 76 to 106 — Motive — Proof of, is not always necessary (Dec) 53A

Penal Code (contd.)

—Chap. IV, General (Ss. 76 to 106), Ss. 364, 302 — Prosecution for murder — Motive — Proof of, whether essential (Dec) 57B

—S. 102—Right of private defence of person — Exceeding right—Effect — See Penal Code (1860), S. 304, Part II (Dec) 53B

—S. 302—Prosecution for murder—Motive — Proof of whether essential — See Penal Code (1860), Chap. IV, General (Dec) 57B

—Ss. 304, Part. II, and 102 — Accused inflicting blows on deceased after latter had fallen on ground and weapon wrested from him—Held, that the accused had over-stepped the legal limits of defence of person and was punishable under Part II of S. 304—In view of grave nature of injury inflicted on deceased the accused could be attributed knowledge that his act was likely to cause death (Dec) 53B

—S. 304, Part. II — Sentence—Number of injuries inflicted by accused on deceased smack of barbarism and nature thereof indicating barbarity — There cannot be any leniency in punishment — R. I. for 3 years and fine of Rs. 2,000 imposed (Dec) 53C

—S. 364 — Offence under S. 364—No enmity between the two accused persons and two deceased—Third co-accused P who was alleged to have procured services of accused, for abduction of deceased, exonerated of charge under S. 364 read with S. 109, Penal Code and acquitted—It is futile for prosecution to contend that either of the two accused had any motive for committing double murder — If the co-accused P had not engaged them for alleged abduction, charge of abduction against accused must fall ipso facto inasmuch as it was the basis of prosecution story that it was P who procured abduction of deceased (Dec) 57C

—S. 395 — Dacoity — Bail — Principles governing grant of — See Criminal P. C. (1898), S. 497 (July) 42A

—S. 395—Probability of accused absconding — Grant of bail not proper — See Criminal P. C. (1898), S. 497 (July) 42B

—S. 397 — Dacoity — Bail — Principles governing grant of — See Criminal P. C. (1898), S. 497 (July) 42A

—S. 397 — Prima facie evidence against accused—Probability of absconding—Grant of bail not proper—See Criminal P. C. (1898), S. 497 (July) 42B

—Ss. 408 and 477-A — Applicability — Secretary to Co-operative society entrusted with its funds and responsible to keep cash and accounts — Causing false entries to be made showing sham payments to his friends and relatives—Contravention of bye-laws — Secretary liable — His absence at the time of alleged payments, held, could not absolve

West Bengal Land Development and Planning Act (contd.)

—S. 8 (1) (b) — Acquisition of land for construction of Industrial Training Centre — Fixation of market value of land for compensation — Evidence of sale transaction in respect of nal land produced — Held, lands acquired was 'table tilla' land and was as

West Bengal Land Development and Planning Act (contd.)

valuable as nal land, if not more and better fitted for building purposes — Fixation of compensation at half the rate at which 'nal land' was sold was, therefore, not proper and same should be fixed at the same rate at which 'nal land' was sold (Jan) 7E

**TRIPURA CASES SUBJECTWISE DISSENTED FROM
IN A. I. R. 1969**

Arbitration Act (10 of 1940)

—S. 2 (a) — AIR 1964 Tripura 27—Diss, AIR 1969 Tripura 19B (Mar).

Arbitration Act (Contd.)

—S. 20—AIR 1964 Tripura 27 — Diss, AIR 1969 Tripura 19B (Mar).

**TRIPURA CASES DISSENTED FROM
IN AIR 1969**

(64) AIR 1964 Tripura 27, Gupta R. D. v. Union of India — Diss. A I R 1969 Tripura 19B (Mar).

COMPARATIVE TABLE

AIR 1969 Tripura=Other Journals

AIR	Other Journals	AIR	Other Journals	AIR	Other Journals	AIR	Other Journals
1 [CN 1]	...	13 [CN 4]	1969 Cri L J 318	31 [CN 8]	1969 Cri L J 791	53 [CN 11]	1969 Cri L J 1545
7 [CN 2]	...	15 [CN 5]	...	42 [CN 9]	1969 Cri L J 1534	57 [CN 12]	1969 Cri L J 1549
10 [CN 3]	1969 Lab I C 110	19 [CN 6]	...	44 [CN 10]	1969 Cri L J 1536	62 [CN 13]	...
		28 [CN 7]	...				

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